

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 8509
11/1/18

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24		SUBCHAPTER A. GENERAL PROVISIONS	
25		<u>Revised Law</u>	
26	Sec. 8509.0001.	DEFINITIONS. In this chapter:	
27	(1)	"Board" means the district's board of directors.	
28	(2)	"Commission" means the Texas Commission on	
29		Environmental Quality.	
30	(3)	"Director" means a board member.	
31	(4)	"District" means the Palo Duro Water District.	
32	(5)	"Member entity" means a county or municipality	
33		that is a member of the district. (Acts 63rd Leg., R.S., Ch. 438,	
34		Sec. 1B.)	

Source Law

Sec. 1B. In this Act:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a member of the board.

(4) "District" means the Palo Duro Water District.

(5) "Member entity" means a county or municipality that is a member of the district.

Revised Law

Sec. 8509.0002. NATURE OF DISTRICT. The district is a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, and a political subdivision of this state. (Acts 63rd Leg., R.S., Ch. 438, Sec. 1.)

Source Law

Sec. 1. By virtue of Section 59, Article XVI of the Constitution of the State of Texas, there is hereby created a conservation and reclamation district to be known as "Palo Duro Water District," which shall be a governmental agency, a body politic and corporate, and a political subdivision of this state.

Revisor's Note

Section 1, Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, refers to the district as "a conservation and reclamation district" and as "a governmental agency" and "a body politic and corporate." The revised law omits the references to "governmental agency" and "body politic and corporate" because they duplicate a portion of Section 59(b), Article XVI, Texas Constitution, which provides that a conservation and reclamation district is a governmental agency and a body politic and corporate.

Revised Law

Sec. 8509.0003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) The legislature finds that:

(1) all land included in the district will benefit from the improvements to be acquired and constructed by the district; and

1 (2) the district is created to serve a public use and
2 benefit.

3 (b) The accomplishment of the purposes stated in this
4 chapter is for the benefit of the people of this state and for the
5 improvement of their property and industries. The district, in
6 carrying out the purposes of this chapter, will be performing an
7 essential public function under the Texas Constitution. (Acts 63rd
8 Leg., R.S., Ch. 438, Secs. 2 (part), 26 (part).)

9 Source Law

10 Sec. 2. . . . It is hereby found and determined
11 that all of the land thus included in the district will
12 be benefited by the improvements to be acquired and
13 constructed by the district, and that the district is
14 created to serve a public use and benefit.

15 Sec. 26. The accomplishment of the purposes
16 stated in this Act is for the benefit of the people of
17 this state and for the improvement of their properties
18 and industries, and the district, in carrying out the
19 purposes of this Act will be performing an essential
20 public function under the Constitution. . . .

21 Revised Law

22 Sec. 8509.0004. DISTRICT TERRITORY. Unless modified under
23 Subchapter J, Chapter 49, Water Code, this chapter or its
24 predecessor statute, Chapter 438, Acts of the 63rd Legislature,
25 Regular Session, 1973, or other law, the district's territory
26 comprises all of the territory contained in:

- 27 (1) Hansford and Moore Counties; and
28 (2) the City of Stinnett. (Acts 63rd Leg., R.S.,
29 Ch. 438, Sec. 2 (part); New.)

30 Source Law

31 Sec. 2. The district hereby created and
32 established shall comprise all of the territory
33 contained within the Counties of Hansford and Moore
34 and the City of Stinnett. . . .

35 Revisor's Note

36 The revision of the law governing the district
37 revises the statutory language describing the
38 district's territory. Because the district's
39 boundaries are subject to change, that description may
40 not be accurate on the effective date of the revision

1 or at the time of a later reading. For the reader's
2 convenience, the revised law adds references to the
3 statutory authority to change the district's territory
4 under Subchapter J, Chapter 49, Water Code, applicable
5 to the district under Sections 49.001 and 49.002 of
6 that chapter, this chapter, and former Chapter 438,
7 Acts of the 63rd Legislature, Regular Session, 1973.
8 The revised law also includes a reference to the
9 general authority of the legislature to enact a law to
10 change the district's territory.

11 Revised Law

12 Sec. 8509.0005. CORRECTION OF INVALID PROCEDURES. If a
13 court holds that any procedure under this chapter violates the
14 Texas Constitution or the United States Constitution, the board by
15 resolution may provide an alternative procedure that conforms with
16 the constitution. (Acts 63rd Leg., R.S., Ch. 438, Sec. 31 (part).)

17 Source Law

18 Sec. 31. . . . [Federal or State Constitutions]
19 Where any procedure hereunder may be held by
20 any court to be violative of either of such
21 Constitutions the Board shall have the power by
22 resolution to provide an alternative procedure
23 conformable to such Constitutions. . . .

24 Revisor's Note

25 Section 31, Chapter 438, Acts of the 63rd
26 Legislature, Regular Session, 1973, provides that the
27 act may not be construed to violate the federal or
28 state constitution and requires that action under the
29 act comply with the constitutions. The revised law
30 omits the reference to the federal constitution
31 because under the Supremacy Clause of the United
32 States Constitution (Clause 2, Article VI), federal
33 law always takes precedence over a state statute. The
34 revised law omits the reference to the state
35 constitution because the state legislature cannot
36 modify constitutional provisions by statute. The

1 omitted law reads:

2 Sec. 31. Nothing in the Act shall be
3 construed to violate any provision of the
4 Federal or State Constitutions and all acts
5 done under this Act shall be done in such
6 manner as will conform thereto whether
7 herein expressly provided or not. . . .

8 SUBCHAPTER B. PROCEDURES FOR ANNEXATION, WITHDRAWAL, OR
9 DISSOLUTION

10 Revised Law

11 Sec. 8509.0051. ANNEXATION OF TERRITORY. (a) Territory,
12 whether or not contiguous to the district, may be annexed to the
13 district in the manner provided by this section.

14 (b) The board may annex territory or a municipality under
15 this section only if a petition requesting annexation is filed with
16 the board. The petition must:

17 (1) describe the territory to be annexed by metes and
18 bounds, or otherwise, except that if the territory is the same as
19 that contained in the boundaries of a municipality, the petition is
20 sufficient if it states that the territory to be annexed is the
21 territory contained in the municipal boundaries; and

22 (2) be signed by 50 registered voters of the territory
23 or municipality to be annexed, or a majority of the registered
24 voters of that territory or municipality, whichever is fewer.

25 (c) If the board determines that the petition complies with
26 Subsection (b), that the annexation would be in the best interest of
27 the territory or municipality and the district, and that the
28 district will be able to supply water to the territory or
29 municipality, the board shall:

30 (1) adopt a resolution stating the conditions, if any,
31 under which the territory or municipality may be annexed to the
32 district; and

33 (2) set a time and place to hold a hearing on the
34 question of whether the territory or municipality to be annexed
35 will benefit from:

36 (A) the improvements, works, or facilities owned

1 or operated or contemplated to be owned or operated by the district;
2 or

3 (B) the other functions of the district.

4 (d) At least 10 days before the date of the hearing, notice
5 of the adoption of the resolution must be published one time in a
6 newspaper of general circulation in the territory or municipality
7 proposed to be annexed. The notice must:

8 (1) state the time and place of the hearing; and

9 (2) describe the territory in the same manner in which
10 Subsection (b) requires or permits the petition to describe the
11 territory.

12 (e) The hearing may proceed in the order and under the rules
13 prescribed by the board and may be recessed.

14 (f) Any interested person may appear at the hearing and
15 offer evidence for or against the annexation.

16 (g) If, at the conclusion of the hearing, the board finds
17 that the property in the territory or municipality will benefit
18 from the district's present or contemplated improvements, works, or
19 facilities, the board shall adopt a resolution making a finding of
20 the benefit and calling an election in the territory or
21 municipality to be annexed.

22 (h) The resolution must state:

23 (1) the date of the election;

24 (2) each place where the election will be held; and

25 (3) the proposition to be voted on.

26 (i) At least 10 days before the date set for the election,
27 notice of the election must be given by publishing a substantial
28 copy of the resolution calling the election one time in a newspaper
29 of general circulation in the territory proposed to be annexed.

30 (j) If a majority of the votes cast at the election are in
31 favor of annexation, the board by resolution shall annex the
32 territory to the district.

33 (k) An annexation under this section is incontestable
34 except in the manner and within the time for contesting elections

1 under the Election Code.

2 (1) In calling an election on the proposition for annexation
3 of the territory or municipality, the board may include, as part of
4 the same proposition or as a separate proposition, a proposition
5 for:

6 (1) the territory to assume its part of the district's
7 tax-supported bonds then outstanding and those bonds previously
8 voted but not yet sold; and

9 (2) an ad valorem tax to be imposed on taxable property
10 in the territory along with the tax in the rest of the district for
11 payment of the bonds and maintenance taxes to be imposed as
12 permitted by Section 8509.0252.

13 (m) If an election under Subsection (1) fails, the annexed
14 territory or municipality shall be excluded from the district.
15 (Acts 63rd Leg., R.S., Ch. 438, Secs. 13(d)(1), (2) (part), (3)
16 (part).)

17 Source Law

18 (d) Territory may be annexed to the district,
19 whether or not contiguous to the district, in the
20 following manner:

21 (1) A petition praying for such annexation
22 signed by fifty (50) or a majority, whichever number is
23 smaller, of the resident, qualified voters of the
24 territory or of duly incorporated cities or towns
25 sought to be annexed shall be filed with the board.
26 The petition shall describe the territory to be
27 annexed by metes and bounds, or otherwise, unless such
28 territory is the same as that contained within the
29 boundaries of such city or town, in which event it
30 shall be sufficient to state that the territory to be
31 annexed is that which is contained within the
32 boundaries of such city or town.

33 (2) If the board finds that the petition
34 complies with and is signed by the number of qualified
35 persons required by Subdivision (1) of this
36 subsection, that the annexation would be to the best
37 interest of the territory, city or town, and the
38 district, and that the district will be able to supply
39 water, or cause water to be supplied to the territory,
40 city, or town, it shall adopt a resolution stating the
41 conditions, if any, under which such territory, city,
42 or town may be annexed to the district, and shall fix a
43 time and place when and where a hearing shall be held
44 by the board on the question of whether the territory,
45 city, or town sought to be annexed will be benefited by
46 the improvements, works, and facilities then owned or
47 operated or contemplated to be owned or operated by the
48 district or by the other functions of the district.
49 Notice of the adoption of such resolution stating the
50 time and place of such hearing shall be published one

1 (1) time in a newspaper of general circulation in the
2 territory, city, or town sought to be annexed at least
3 ten (10) days prior to the date of such hearing. The
4 notice shall describe the territory in the same manner
5 in which it is required or permitted by this Act to be
6 described in the petition. All persons interested may
7 appear at such hearing and offer evidence for or
8 against the proposed annexation. Such hearing may
9 proceed in such order and under such rules as may be
10 prescribed by said board, and the hearing may be
11 recessed from time to time. If, at the conclusion of
12 the hearing, the board finds that the property in such
13 territory, city, or town will be benefited by the
14 present or contemplated improvements, works, or
15 facilities of the district, the board shall adopt a
16 resolution making a finding of such benefit and
17 calling an election in the territory, city, or town
18 proposed to be annexed stating therein the date of the
19 election, the place or places of holding the same, the
20 proposition to be voted on, and

21 Notice of such election shall be given by
22 publishing a substantial copy of the resolution
23 calling the election one (1) time in a newspaper of
24 general circulation in the territory sought to be
25 annexed to the district at least ten (10) days before
26 the date set for the election. If a
27 majority of the votes cast are in favor of annexation,
28 the board shall by resolution annex said territory to
29 the district, and such annexation shall thereafter be
30 incontestable except in the manner and within the time
31 for contesting the elections under the Texas Election
32 Code, as amended.

33 (3) The board, in calling an election on
34 the proposition for annexation of territory, city, or
35 town, may include as a part of the same proposition or
36 a separate proposition for the assumption of its part
37 of the tax-supported bonds of the district then
38 outstanding and those theretofore voted but not yet
39 sold, and for the levy of an ad valorem tax on taxable
40 property in said territory along with the tax in the
41 rest of the district for the payment thereof and the
42 levying of maintenance taxes permitted by Section 27
43 of this Act, If such election fails, the
44 annexed territory, city, or town shall be excluded
45 from the district.

46 Revisor's Note

47 (1) Section 13(d)(1), Chapter 438, Acts of the
48 63rd Legislature, Regular Session, 1973, refers to
49 "resident, qualified voters" of the territory or
50 municipality proposed to be annexed. The revised law
51 substitutes "registered voters" for the quoted
52 language because in the context of eligibility to sign
53 a petition, Section 277.0021, Election Code, provides
54 that "qualified voter" means "registered voter."

55 (2) Section 13(d), Chapter 438, Acts of the 63rd
56 Legislature, Regular Session, 1973, refers to a "city"

1 or "town" and to "duly incorporated cities or towns."
2 Throughout this chapter, the revised law substitutes
3 "municipality" for "city" or "town" because the terms
4 are synonymous and "municipality" is the term used in
5 the Local Government Code. The revised law omits "duly
6 incorporated" because, under the Local Government
7 Code, all municipalities must be incorporated.

8 (3) Section 13(d)(2), Chapter 438, Acts of the
9 63rd Legislature, Regular Session, 1973, refers to a
10 finding by the board that the district will be able to
11 "supply water, or cause water to be supplied." The
12 revised law omits the reference to "cause water to be
13 supplied" because the ability to "supply water"
14 implies the ability to "cause water to be supplied."

15 (4) Section 13(d)(2), Chapter 438, Acts of the
16 63rd Legislature, Regular Session, 1973, provides that
17 the board shall "fix a time and place" for a hearing on
18 the question of annexation. Throughout this chapter,
19 in this and similar contexts, the revised law
20 substitutes "set" for "fix" because the terms are
21 synonymous in these contexts and "set" is more
22 commonly used.

23 (5) Section 13(d)(2), Chapter 438, Acts of the
24 63rd Legislature, Regular Session, 1973, requires
25 notice by publication to describe the territory to be
26 annexed in the same manner in which it is "required or
27 permitted by this Act" to be described in the petition.
28 The provisions for describing the territory in the
29 petition are revised in Subsection (b) of this
30 section. The revised law is drafted accordingly.

31 (6) Section 13(d)(2), Chapter 438, Acts of the
32 63rd Legislature, Regular Session, 1973, provides that
33 the hearing conducted by the board may be recessed
34 "from time to time." Throughout this chapter, the

1 revised law omits "from time to time" because the power
2 to take an action includes the power to act "from time
3 to time."

4 (7) Section 13(d)(2), Chapter 438, Acts of the
5 63rd Legislature, Regular Session, 1973, requires the
6 board to adopt a resolution regarding the appointment
7 of judges and clerks for each voting place. The
8 revised law omits the provision because the 1985
9 enactment of the Election Code, applicable to the
10 district under Section 1.002, Election Code, provides
11 for the selection of election judges and clerks under
12 Chapter 32 of that code, and the provision duplicates
13 or is superseded by that chapter. The omitted law
14 reads:

15 (2) . . . [the board shall
16 adopt a resolution] . . . appointing a
17 presiding judge for each voting place who
18 shall appoint the necessary assistant
19 judges and clerks to assist in holding the
20 election.
21 . . .

22 (8) Section 13(d)(2), Chapter 438, Acts of the
23 63rd Legislature, Regular Session, 1973, restricts
24 certain voting to "constitutionally qualified
25 electors who reside in the territory, city, or town
26 sought to be annexed." Similarly, Section 13(d)(3) of
27 that chapter restricts certain voting to
28 "constitutionally qualified electors." Throughout
29 this chapter, the revised law omits such provisions as
30 unnecessary because Chapter 11, Election Code, governs
31 eligibility to vote in an election in this state and
32 allows only "qualified voters" who are residents of
33 the territory covered by the election to vote in an
34 election. In addition, as a general principle of law,
35 all state statutes, including the Election Code, must
36 be consistent with the constitution. The omitted law
37 reads:

1 (2) . . . Only constitutionally
2 qualified electors who reside in the
3 territory, city, or town sought to be
4 annexed shall be qualified to vote in said
5 election. . . .

6 (3) . . . in which event the
7 voting shall be restricted to
8 constitutionally qualified electors. . . .

9 (9) Section 13(d)(2), Chapter 438, Acts of the
10 63rd Legislature, Regular Session, 1973, states that
11 the board shall receive and canvass the election
12 returns and adopt a resolution declaring the results.
13 The revised law omits that provision as superseded by
14 the 1985 enactment of the Election Code, applicable to
15 the district under Section 1.002 of that code. Chapter
16 67, Election Code, provides for the canvass of
17 elections. The omitted law reads:

18 (2) . . . Returns of the result
19 of said election shall be made to the board.
20 The board shall canvass the returns of the
21 election and adopt a resolution declaring
22 the results thereof. [If] such resolution
23 shows that

24 (10) Section 13(d)(2), Chapter 438, Acts of the
25 63rd Legislature, Regular Session, 1973, refers to
26 "the Texas Election Code, as amended." Throughout
27 this chapter, the revised law omits the references to
28 "as amended" because under Section 311.027, Government
29 Code (Code Construction Act), a reference to a statute
30 applies to all reenactments, revisions, or amendments
31 of that statute unless expressly provided otherwise.

32 (11) Section 13(d)(3), Chapter 438, Acts of the
33 63rd Legislature, Regular Session, 1973, refers to the
34 option of including a ballot proposition for the
35 "levy" of an ad valorem tax on taxable property in the
36 territory to be annexed and the "levying" of
37 maintenance taxes. Throughout this chapter, the
38 revised law substitutes "impose" for "levy," "levy,
39 assess and collect," "levy or collect," or "levy and
40 cause to be assessed and collected" because "impose"

1 is the term generally used in Title 1, Tax Code, and
2 includes the assessment, levying, and collection of a
3 tax.

4 Revised Law

5 Sec. 8509.0052. WITHDRAWAL FROM OR DISSOLUTION OF DISTRICT.

6 (a) A county or municipality may withdraw from the district or the
7 district may dissolve according to this section.

8 (b) To withdraw from the district or to dissolve the
9 district, the governing body of a member entity must issue an order
10 or adopt a resolution declaring the intent to withdraw from or to
11 dissolve the district. The order or resolution must state:

12 (1) the intention to withdraw from the district or to
13 call for the dissolution of the district; and

14 (2) the reasons supporting the withdrawal or
15 dissolution.

16 (c) Not later than the 30th day after the date the district
17 receives an order issued or resolution adopted under Subsection
18 (b), the district shall hold a public hearing on the matter
19 described by the order or resolution.

20 (d) For a proposed withdrawal of a county or municipality
21 from the district, the member entities must reach a financial
22 agreement that provides for sufficient revenue for maintaining the
23 Palo Duro Reservoir and the dam that impounds the water in the
24 reservoir.

25 (e) For a proposed dissolution of the district, the member
26 entities must reach a financial agreement that provides for the
27 transfer of:

28 (1) the ownership rights of the dam that impounds the
29 water in the Palo Duro Reservoir to an entity that assumes
30 responsibility for the maintenance of the dam and liability for
31 actions related to the dam;

32 (2) all district assets and liabilities to other
33 entities; and

34 (3) the responsibility for the continued provision of

1 services, if the district provides services.

2 (f) The board must provide an opportunity for the public to
3 comment on the financial agreement described by Subsection (d) or
4 (e) before the board votes as described by Subsection (g). The
5 period for public comment must last not less than 10 days.

6 (g) After consideration of the public comments submitted
7 under Subsection (f), the board shall vote on the issue described by
8 the order issued or resolution adopted under Subsection (b). The
9 board may proceed with the withdrawal or dissolution only if
10 two-thirds of all of the members of the board vote in favor of
11 withdrawal or dissolution.

12 (h) If the board votes in favor of withdrawal or dissolution
13 as provided by Subsection (g), the governing body of each member
14 entity shall vote on the matter of withdrawal or dissolution.

15 (i) A withdrawal or dissolution authorized under this
16 section does not take effect until:

17 (1) the governing body of each county and municipality
18 has voted in favor of withdrawal or dissolution;

19 (2) all conditions specified in the financial
20 agreement described by Subsection (d) or (e) have been met; and

21 (3) all actions described in the financial agreement
22 described by Subsection (d) or (e) have been completed. (Acts 63rd
23 Leg., R.S., Ch. 438, Sec. 13A.)

24 Source Law

25 Sec. 13A. (a) A county or municipality may
26 withdraw from the district or the district may
27 dissolve according to this section.

28 (b) In order to withdraw from the district or to
29 dissolve the district, the governing body of a member
30 entity must issue an order or pass a resolution
31 declaring the intent to withdraw from or dissolve the
32 district. The order or resolution must state:

33 (1) the intention to either withdraw from
34 the district or call for the dissolution of the
35 district; and

36 (2) the reasons supporting the withdrawal
37 or dissolution.

38 (c) Not later than the 30th day after the date
39 the district receives an order or resolution under
40 Subsection (b), the district shall hold a public
41 hearing on the matter described by the order or
42 resolution.

43 (d) In the event of a proposed withdrawal or

1 dissolution under this section, the member entities
2 must reach a financial agreement that:

3 (1) for a withdrawal of a county or
4 municipality from the district, provides for
5 sufficient revenue for maintaining the Palo Duro
6 Reservoir and the dam that impounds the water in the
7 reservoir; or

8 (2) for a dissolution of the district,
9 provides for the transfer of:

10 (A) the ownership rights of the dam
11 to an entity that assumes responsibility for the
12 maintenance of the dam and liability for actions
13 related to the dam;

14 (B) all assets and liabilities of the
15 district to other entities; and

16 (C) the responsibility for the
17 continued provision of services, if the district
18 provides services.

19 (e) The board must provide an opportunity for
20 the public to comment on the financial agreement
21 described by Subsection (d) before the board votes as
22 described by Subsection (f). The period for public
23 comment must last not less than 10 days.

24 (f) After consideration of the public comments
25 submitted under Subsection (e), the board shall vote
26 on the issue described by the order or resolution under
27 Subsection (b). The board may proceed with the
28 withdrawal or dissolution only if two-thirds of all of
29 the members of the board vote in favor of withdrawal or
30 dissolution.

31 (g) If the board votes in favor of withdrawal or
32 dissolution as provided by Subsection (f), the
33 governing body of each member entity shall vote on the
34 matter of withdrawal or dissolution.

35 (h) A withdrawal or dissolution authorized
36 under this section does not take effect until:

37 (1) the governing body of each county and
38 municipality has voted in favor of withdrawal or
39 dissolution;

40 (2) all conditions specified in the
41 financial agreement described by Subsection (d) have
42 been met; and

43 (3) all actions described in the financial
44 agreement described by Subsection (d) have been
45 completed.

46 SUBCHAPTER C. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

47 Revised Law

48 Sec. 8509.0101. COMPOSITION OF BOARD; TERMS. (a) Four
49 directors are appointed by the commissioners court of each county
50 contained in the district, except for Hutchinson County, and one
51 director is appointed by the city council of the City of Stinnett.

52 (b) Directors serve staggered two-year terms expiring
53 December 31.

54 (c) Each December the commissioners court of each county
55 contained in the district, except for Hutchinson County, and the
56 city council of the City of Stinnett shall appoint a director or

1 directors from that county or city to succeed the director or
2 directors appointed by that commissioners court or city council
3 whose terms expire on the 31st day of that month. (Acts 63rd Leg.,
4 R.S., Ch. 438, Secs. 17(a), (b) (part), (c) (part).)

5 Source Law

6 Sec. 17. (a) All powers of the district shall
7 be exercised by the board. Each director of the board
8 shall serve staggered, two-year terms that expire on
9 December 31 of each year.

10 (b) In December of each year, the Commissioners
11 Court of each county contained in the district, except
12 for Hutchinson County, and the city council of the City
13 of Stinnett shall appoint a director or directors
14 whose term or terms are about to expire. . . . Four (4)
15 directors shall be appointed by the Commissioners
16 Court of each county contained in the district, except
17 for Hutchinson County, and one director shall be
18 appointed by the city council of the City of Stinnett.

19 . . .
20 (c) Each director shall serve for the director's
21 term of office as herein provided, and

22 Revisor's Note

23 Section 17(a), Chapter 438, Acts of the 63rd
24 Legislature, Regular Session, 1973, provides that
25 "[a]ll powers of the district shall be exercised by the
26 board." The revised law omits the quoted language
27 because it duplicates, in substance, provisions of
28 Sections 49.051 and 49.057, Water Code. Throughout
29 this chapter, the revised law omits law that is
30 superseded by Chapter 49, Water Code, or that
31 duplicates law contained in that chapter. Chapter 49,
32 Water Code, applies to the district under Sections
33 49.001 and 49.002 of that chapter.

34 Revised Law

35 Sec. 8509.0102. QUALIFICATIONS FOR OFFICE. (a) A person
36 may be appointed a director by the commissioners court of a county
37 only if the person resides in and owns taxable property in the
38 county from which the person is appointed.

39 (b) A person may be appointed director by the city council
40 of the City of Stinnett only if the person resides in and owns
41 taxable property in the city.

1 (c) A member of a governing body of a county or of the City
2 of Stinnett or an employee of a county or of the City of Stinnett may
3 not be appointed director. (Acts 63rd Leg., R.S., Ch. 438,
4 Secs. 17(b) (part), (c) (part).)

5 Source Law

6 (b) . . . Each director shall reside in the
7 county from which the director is appointed.

8 (c) . . . No person shall be appointed a
9 director unless the person resides in and owns taxable
10 property in the county or city from which the person
11 is appointed. No member of a governing body of a
12 county or the City of Stinnett, and no employee of a
13 county or the City of Stinnett shall be appointed as
14 director. . . .

15 Revised Law

16 Sec. 8509.0103. REMOVAL. Not earlier than the 10th day
17 after the date a director receives written notice of a charge
18 against the director, and after an opportunity to be heard in person
19 or through the appearance of counsel at a public hearing on the
20 matter of the charge described by the notice, the board may remove a
21 director for:

22 (1) inefficiency;

23 (2) neglect of duty; or

24 (3) misconduct in office. (Acts 63rd Leg., R.S.,
25 Ch. 438, Sec. 19C.)

26 Source Law

27 Sec. 19C. Not earlier than the 10th day after
28 the date a director receives written notice of a charge
29 against the director, and after an opportunity to be
30 heard in person or through the appearance of counsel at
31 a public hearing on the matter of the charge described
32 by the notice, the board may remove a director for:

33 (1) inefficiency;

34 (2) neglect of duty; or

35 (3) misconduct in office.

36 Revised Law

37 Sec. 8509.0104. VACANCY. (a) If a director appointed by
38 the commissioners court of a county ceases to reside in the county
39 or otherwise ceases to serve as a director, the commissioners court
40 of that county shall appoint a director to fill the vacancy for the
41 unexpired term.

42 (b) If a director appointed by the city council of the City

1 of Stinnett ceases to reside in the city or otherwise ceases to
2 serve as a director, the city council of that city shall appoint a
3 director to fill the vacancy for the unexpired term. (Acts 63rd
4 Leg., R.S., Ch. 438, Secs. 17(b) (part), (c) (part).)

5 Source Law

6 (b) . . . Any vacancy shall be filled for the
7 unexpired term by the governing body of the
8 appropriate county or city. . . .

9 (c) . . . If any director moves from the county
10 or city from which the director is appointed or
11 otherwise ceases to be a director, the Commissioners
12 Court of such county or the city council of the City of
13 Stinnett, as appropriate, shall appoint a director to
14 succeed in the position for the unexpired term.

15 Revised Law

16 Sec. 8509.0105. OFFICERS. (a) The board shall elect from
17 the board's membership a president, a vice president, and any other
18 officers as the board determines necessary. The president is the
19 district's chief executive officer and the board's presiding
20 officer. Except as provided by Section 8509.0106, the vice
21 president shall act as president if the president is absent or fails
22 or declines to act.

23 (b) The board shall appoint a secretary and a treasurer, who
24 are not required to be directors. The board may combine the offices
25 of secretary and treasurer. (Acts 63rd Leg., R.S., Ch. 438, Sec. 18
26 (part).)

27 Source Law

28 Sec. 18. The board shall elect from its number a
29 president and a vice president of the district, and
30 such other officers as in the judgment of the board are
31 necessary. The president shall be the chief executive
32 officer of the district and the presiding officer of
33 the board, and The vice president shall perform
34 all duties and exercise all powers conferred by this
35 Act upon the president when the president is absent or
36 fails or declines to act [except the president's right
37 to vote]. The board shall also appoint a secretary and
38 a treasurer who may or may not be members of the board,
39 and it may combine those offices. . . .

40 Revised Law

41 Sec. 8509.0106. VOTE BY BOARD PRESIDENT. The president has
42 the same right to vote as any other director. The vice president
43 may not exercise the president's right to vote. (Acts 63rd Leg.,

1 R.S., Ch. 438, Sec. 18 (part).)

2 Source Law

3 Sec. 18. . . . The president . . . shall have
4 the same right to vote as any other director. [The
5 vice president shall perform all duties and exercise
6 all powers conferred by this Act upon the president]
7 . . . except the president's right to vote. . . .

8 Revised Law

9 Sec. 8509.0107. EMPLOYEES. The board may employ a general
10 manager, attorneys, accountants, engineers, or other technical or
11 nontechnical employees or assistants and set the amount and manner
12 of their compensation. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19
13 (part).)

14 Source Law

15 Sec. 19. The board . . . may employ a general
16 manager, attorneys, accountants, engineers, or other
17 technical or nontechnical employees or assistants; fix
18 the amount and manner of their compensation; and
19

20 Revisor's Note

21 Section 19, Chapter 438, Acts of the 63rd
22 Legislature, Regular Session, 1973, authorizes the
23 board of directors to confer on the general manager the
24 power to employ and discharge employees. The revised
25 law omits that provision because it duplicates, in
26 substance, part of Section 49.056, Water Code. The
27 omitted law reads:

28 Sec. 19. . . . The power to employ
29 and discharge employees may be conferred
30 upon the general manager.

31 Revised Law

32 Sec. 8509.0108. DIRECTOR'S AND TREASURER'S BONDS. (a) Each
33 director shall give bond in the amount of \$5,000 conditioned on the
34 faithful performance of the director's duties.

35 (b) The treasurer shall give bond in an amount required by
36 the board. The treasurer's bond must be conditioned on the
37 treasurer's faithful accounting for all money that comes into the
38 treasurer's custody as district treasurer. (Acts 63rd Leg., R.S.,
39 Ch. 438, Secs. 17(c) (part), 18 (part).)

Source Law

[Sec. 17]

(c) . . . [Such directors] . . . each shall give bond for the faithful performance of the director's duties in the amount of Five Thousand Dollars (\$5,000.),

Sec. 18. . . . The treasurer shall give bond in such amount as may be required by the board. The condition of such bond shall be that the treasurer will faithfully account for all money which shall come into the treasurer's custody as treasurer of the district, and

Revisor's Note

Section 17(c), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, provides that the district shall pay the cost of a director's bond. The revised law omits that provision because it duplicates, in substance, Section 49.055(c), Water Code. The omitted law reads:

(c) . . . [Such directors . . . shall give bond] . . . the cost of which shall be paid by the district. . . .

Revised Law

Sec. 8509.0109. COMPENSATION OF DIRECTORS. (a) Unless the board by resolution increases the fee to an amount authorized by Section 49.060, Water Code, each director:

(1) shall receive a fee for attending each board meeting not to exceed \$25 for a meeting or \$50 in one calendar month; and

(2) is entitled to an additional amount not to exceed \$25 for each day that the director devotes to serving the district's business if the service is expressly approved by the board.

(b) In all areas of conflict with Subsection (a) of this section, Section 49.060, Water Code, takes precedence. (Acts 63rd Leg., R.S., Ch. 438, Sec. 17(d) (part); New.)

Source Law

(d) Unless the board by resolution increases the fee to an amount authorized by Section 49.060, Water Code, each director shall receive a fee of not to exceed Twenty-Five Dollars (\$25.) for attending each meeting of the board, provided that no more than Fifty Dollars (\$50.) shall be paid to any director for

1 meetings held in any one (1) calendar month. Each
2 director shall also be entitled to receive not to
3 exceed Twenty-Five Dollars (\$25.) per day devoted to
4 the business of the district and . . . provided that
5 such service and . . . are expressly approved by the
6 board.

7 Revisor's Note

8 (1) Section 17(d), Chapter 438, Acts of the 63rd
9 Legislature, Regular Session, 1973, provides in part
10 that "[u]nless the board by resolution increases the
11 fee to an amount authorized by Section 49.060, Water
12 Code, each director shall receive a fee of not to
13 exceed Twenty-Five Dollars (\$25.) for attending each
14 meeting of the board, provided that no more than Fifty
15 Dollars (\$50.) shall be paid to any director for
16 meetings held in any one (1) calendar month." Section
17 17(d) was amended by Chapter 1046, Acts of the 85th
18 Legislature, Regular Session, 2017, to include the
19 reference to Section 49.060, Water Code, which was
20 enacted in 1995 and applies to the district on its own
21 terms. Section 49.060 provides for a director's fees
22 of office, computed on a rate per day of certain
23 service. Section 49.060(e) provides that, in all
24 areas of conflict, Section 49.060 takes precedence
25 over all prior statutory enactments and that, if the
26 enactment of that section would result in a fee
27 increase, the increase does not apply to a district
28 unless the board by resolution authorizes payment of
29 the higher fees. Because it is unclear whether the
30 district has taken an action relating to fees paid to
31 directors and whether the quoted language, after its
32 revision by this chapter, would continue to be
33 considered a prior statutory enactment for purposes of
34 Section 49.060(e), the revised law includes the
35 substance of the quoted language and adds a provision
36 to preserve the effect of Section 49.060 to the extent
37 of a conflict with that language.

1 (2) Section 17(d), Chapter 438, Acts of the 63rd
2 Legislature, Regular Session, 1973, provides in part
3 for reimbursement of expenses incurred by a director
4 in attending to district business if expressly
5 approved by the board. The revised law omits the
6 provision because it is expressly superseded by
7 Section 49.060, Water Code (enacted in 1995). The
8 omitted law reads:

9 (d) . . . [Each director shall also
10 be entitled] . . . to reimbursement for
11 actual expenses incurred in attending to
12 district business [provided that such
13 service and] expense [are expressly
14 approved by the board.]

15 Revised Law

16 Sec. 8509.0110. INTEREST IN CONTRACT. (a) A director who
17 has a financial interest in a contract under consideration by the
18 district for the purchase, sale, lease, rental, or supply of
19 property, including supplies, materials, and equipment, or the
20 construction of facilities, shall disclose that fact to the other
21 directors and may not vote on or participate in discussions during
22 board meetings on the acceptance of the contract.

23 (b) A director's financial interest does not affect the
24 validity of a contract if disclosure is made and the director with
25 the financial interest does not vote on the question of entering
26 into the contract. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19B.)

27 Source Law

28 Sec. 19B. A director who has a financial
29 interest in a contract under consideration by the
30 district for the purchase, sale, lease, rental, or
31 supply of property, including supplies, materials, and
32 equipment, or the construction of facilities, shall
33 disclose that fact to the other members of the board
34 and may not vote on or participate in discussions
35 during board meetings on the acceptance of the
36 contract. A financial interest of a director does not
37 affect the validity of a contract if disclosure is made
38 and the director with the financial interest does not
39 vote on the question of entering into the contract.

40 Revised Law

41 Sec. 8509.0111. DIRECTOR TRAINING PROGRAM. (a) A person
42 who is appointed to and qualifies for office as a director may not

1 vote, deliberate, or be counted as a director in attendance at a
2 board meeting until the person completes a training program that
3 complies with this section.

4 (b) The training program must provide the person with
5 information regarding:

6 (1) the law governing district operations;

7 (2) the district's programs, functions, rules, and
8 budget;

9 (3) the scope of and limitations on the district's
10 rulemaking authority;

11 (4) the results of the district's most recent formal
12 audit;

13 (5) the requirements of:

14 (A) laws relating to open meetings, public
15 information, administrative procedure, and disclosing conflicts of
16 interest; and

17 (B) other laws applicable to members of the
18 governing body of a water district in performing their duties; and

19 (6) any applicable ethics policies adopted by the
20 board or the Texas Ethics Commission.

21 (c) A person appointed to the board is entitled to
22 reimbursement for the travel expenses incurred in attending the
23 training program regardless of whether the attendance at the
24 program occurs before or after the person qualifies for office.

25 (d) The board shall create a training manual that includes
26 the information required by Subsection (b). The board shall
27 distribute a copy of the training manual annually to each director.
28 On receipt of the training manual, each director shall sign a
29 statement acknowledging receipt of the training manual. (Acts 63rd
30 Leg., R.S., Ch. 438, Sec. 19D.)

31 Source Law

32 Sec. 19D. (a) A person who is appointed to and
33 qualifies for office as a director may not vote,
34 deliberate, or be counted as a director in attendance
35 at a meeting of the board until the person completes a
36 training program that complies with this section.

1 (b) The training program must provide the person
2 with information regarding:

3 (1) the law governing district operations;
4 (2) the programs, functions, rules, and
5 budget of the district;

6 (3) the scope of and limitations on the
7 rulemaking authority of the district;

8 (4) the results of the most recent formal
9 audit of the district;

10 (5) the requirements of:

11 (A) laws relating to open meetings,
12 public information, administrative procedure, and
13 disclosing conflicts of interest; and

14 (B) other laws applicable to members
15 of the governing body of a water district in performing
16 their duties; and

17 (6) any applicable ethics policies adopted
18 by the board or the Texas Ethics Commission.

19 (c) A person appointed to the board is entitled
20 to reimbursement for the travel expenses incurred in
21 attending the training program regardless of whether
22 the attendance at the program occurs before or after
23 the person qualifies for office.

24 (d) The board shall create a training manual
25 that includes the information required by Subsection
26 (b). The board shall distribute a copy of the training
27 manual annually to each director. On receipt of the
28 training manual, each director shall sign a statement
29 acknowledging receipt of the training manual.

30 Revised Law

31 Sec. 8509.0112. SEPARATION OF POLICYMAKING AND MANAGEMENT
32 FUNCTIONS. The board shall develop and implement policies that
33 clearly separate the policymaking responsibilities of the board and
34 the management responsibilities of the district's general manager
35 and staff. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19E.)

36 Source Law

37 Sec. 19E. The board shall develop and implement
38 policies that clearly separate the policymaking
39 responsibilities of the board and the management
40 responsibilities of the general manager and staff of
41 the district.

42 Revised Law

43 Sec. 8509.0113. COMPLAINTS. (a) The district shall
44 maintain a system to promptly and efficiently act on complaints
45 filed with the district. The district shall maintain information
46 about parties to the complaint, the subject matter of the
47 complaint, a summary of the results of the review or investigation
48 of the complaint, and its disposition.

49 (b) The district shall make information available
50 describing its procedures for complaint investigation and

1 resolution.

2 (c) The district shall periodically notify the parties to
3 the complaint of the status of the complaint until final
4 disposition. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19F.)

5 Source Law

6 Sec. 19F. (a) The district shall maintain a
7 system to promptly and efficiently act on complaints
8 filed with the district. The district shall maintain
9 information about parties to the complaint, the
10 subject matter of the complaint, a summary of the
11 results of the review or investigation of the
12 complaint, and its disposition.

13 (b) The district shall make information
14 available describing its procedures for complaint
15 investigation and resolution.

16 (c) The district shall periodically notify the
17 complaint parties of the status of the complaint until
18 final disposition.

19 Revised Law

20 Sec. 8509.0114. NEGOTIATED RULEMAKING AND ALTERNATIVE
21 DISPUTE RESOLUTION. (a) The district shall develop a policy to
22 encourage the use of:

23 (1) negotiated rulemaking procedures under Chapter
24 2008, Government Code, for the adoption of district rules; and

25 (2) appropriate alternative dispute resolution
26 procedures under Chapter 2009, Government Code, to assist in the
27 resolution of internal and external disputes under the district's
28 jurisdiction.

29 (b) The district's procedures relating to alternative
30 dispute resolution must conform, to the extent possible, to any
31 model guidelines issued by the State Office of Administrative
32 Hearings for the use of alternative dispute resolution by state
33 agencies.

34 (c) The district shall:

35 (1) coordinate the implementation of the policy
36 adopted under Subsection (a);

37 (2) provide training as needed to implement the
38 procedures for negotiated rulemaking or alternative dispute
39 resolution; and

40 (3) collect data concerning the effectiveness of those

1 procedures. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19G.)

2 Source Law

3 Sec. 19G. (a) The district shall develop a
4 policy to encourage the use of:

5 (1) negotiated rulemaking procedures
6 under Chapter 2008, Government Code, for the adoption
7 of district rules; and

8 (2) appropriate alternative dispute
9 resolution procedures under Chapter 2009, Government
10 Code, to assist in the resolution of internal and
11 external disputes under the district's jurisdiction.

12 (b) The district's procedures relating to
13 alternative dispute resolution must conform, to the
14 extent possible, to any model guidelines issued by the
15 State Office of Administrative Hearings for the use of
16 alternative dispute resolution by state agencies.

17 (c) The district shall:

18 (1) coordinate the implementation of the
19 policy adopted under Subsection (a);

20 (2) provide training as needed to
21 implement the procedures for negotiated rulemaking or
22 alternative dispute resolution; and

23 (3) collect data concerning the
24 effectiveness of those procedures.

25 Revised Law

26 Sec. 8509.0115. PUBLIC COMMENT POLICY. The board shall
27 develop and implement policies that provide the public with a
28 reasonable opportunity to appear before the board and to speak on
29 any agenda item at board meetings. (Acts 63rd Leg., R.S., Ch. 438,
30 Sec. 19A.)

31 Source Law

32 Sec. 19A. The board shall develop and implement
33 policies that provide the public with a reasonable
34 opportunity to appear before the board and to speak on
35 any agenda item at board meetings.

36 Revised Law

37 Sec. 8509.0116. EXPENDITURES. The board may provide for
38 the payment of expenditures considered essential to the proper
39 maintenance of the district and its affairs. (Acts 63rd Leg., R.S.,
40 Ch. 438, Sec. 19 (part).)

41 Source Law

42 Sec. 19. The board . . . may provide for the
43 payment of expenditures deemed essential to the proper
44 maintenance of the district and its affairs. . . .

45 Revised Law

46 Sec. 8509.0117. SEAL. The board may adopt a seal for the
47 district. (Acts 63rd Leg., R.S., Ch. 438, Sec. 18 (part).)

1 Source Law

2 Sec. 18. . . . the board may adopt a seal for
3 the district.

4 Revisor's Note
5 (End of Subchapter)

6 (1) Section 17(c), Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, provides in part
8 that a director serves until the director's successor
9 is appointed and has qualified. The revised law omits
10 that provision because Section 17, Article XVI, Texas
11 Constitution, provides that an officer in this state
12 continues to perform the officer's official duties
13 until a successor has qualified. The omitted law
14 reads:

15 (c) [Each director shall serve for
16 the director's term of office as herein
17 provided, and] thereafter until the
18 director's successor shall be appointed and
19 qualified. . . .

20 (2) Section 17(c), Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, requires each
22 director to take the constitutional oath of office.
23 The revised law omits the provision because Section 1,
24 Article XVI, Texas Constitution, requires all officers
25 to take an oath or affirmation before assuming office.
26 The omitted law reads:

27 (c) Such directors shall
28 subscribe the Constitutional oath of
29 office, and

30 (3) Section 17(c), Chapter 438, Acts of the 63rd
31 Legislature, Regular Session, 1973, provides that a
32 majority of the directors constitutes a quorum. The
33 revised law omits that provision because it duplicates
34 Section 49.053, Water Code. The omitted law reads:

35 (c) A majority shall
36 constitute a quorum. . . .

37 SUBCHAPTER D. POWERS AND DUTIES

Revised Law

Sec. 8509.0151. GENERAL WATER SUPPLY POWERS. (a) The district, inside or outside its boundaries, may:

(1) develop, construct, or purchase a dam or reservoir;

(2) in order to preserve and protect the purity of the waters of the state and of the district and conserve and reclaim those waters for beneficial use by the district's inhabitants, provide any plant, work, facility, or appliance incident to or helpful or necessary to the collection, transportation, processing, disposal, or control of those waters for agricultural, municipal, domestic, oil field flooding, mining, or industrial purposes;

(3) construct or purchase any plant or other facility necessary or useful to:

(A) provide a source of water supply;

(B) store or process the water; or

(C) transport or distribute the water for irrigation, livestock raising, agricultural, municipal, domestic, or industrial purposes;

(4) impound, store, control, and conserve the storm and flood waters and the unappropriated flow waters, including the storm and flood waters and unappropriated flow waters of Palo Duro Creek and Horse Creek, by complying with Subchapters A-D, Chapter 11, and Subchapter B, Chapter 12, Water Code;

(5) acquire or construct a dam or any work, plant, or other facility necessary or useful to impound, process, or transport water to a municipality or other entity for municipal, agricultural, domestic, industrial, oil field flooding, or mining purposes; and

(6) develop or purchase additional sources of water, subject to Section 8509.0157.

(b) The district may acquire land inside or outside the district's boundaries and construct, lease, or otherwise acquire

1 any work, plant, or other facility necessary or useful to:

2 (1) divert, further impound, or store water;

3 (2) process the water; or

4 (3) transport the water to a municipality or other
5 entity for agricultural, municipal, domestic, industrial, oil
6 field flooding, or mining purposes.

7 (c) The board shall determine the size of a dam and
8 reservoir developed, constructed, or purchased under Subsection
9 (a), taking into consideration probable future increases in water
10 requirements. The size of the dam may not be limited by the amount
11 of water the commission initially authorizes to be impounded by the
12 dam.

13 (d) The district may lease or otherwise acquire rights in
14 and to storage and storage capacity in any reservoir constructed or
15 to be constructed by any person or from the United States. (Acts
16 63rd Leg., R.S., Ch. 438, Secs. 3 (part), 8, 9, 12 (part).)

17 Source Law

18 Sec. 3. The district, inside or outside its
19 boundaries, is hereby empowered: (a) to develop,
20 construct or purchase dams and reservoirs. The
21 district is empowered to construct or to purchase all
22 plants and other facilities necessary or useful for
23 the purpose of providing a source of water supply and
24 storing, processing such water and transporting and
25 distributing it for irrigation, livestock raising,
26 agricultural, municipal, domestic and industrial
27 purposes. The district shall at all times have power
28 to develop or purchase additional sources of water and
29 (b) in order to preserve and protect the purity
30 of the waters of the state and of the district and
31 conserve and reclaim said waters for beneficial use by
32 the inhabitants of the district, to provide all
33 plants, works, facilities and appliances incident to
34 or helpful or necessary to the collection,
35 transportation, processing, disposal, and control of
36 such waters for agricultural, municipal, domestic, oil
37 field flooding, mining and industrial purposes; and
38 (c) the district is empowered to impound, store,
39 control and conserve the storm and flood waters and the
40 unappropriated flow waters, including but not limited
41 to the storm and flood waters and unappropriated flow
42 waters of Palo Duro Creek and Horse Creek, by complying
43 with the provisions of Chapter 1, Title 128, Revised
44 Civil Statutes of Texas, as amended.

45 Sec. 8. The district is authorized to acquire or
46 construct within or without the boundaries of the
47 district a dam or dams and all works, plants and other
48 facilities necessary or useful for the purpose of
49 impounding, processing and transporting water to

1 cities and others for municipal, agricultural,
2 domestic, industrial, oil field flooding, and mining
3 purposes. The size of the dam and reservoir shall be
4 determined by the board, taking into consideration
5 probable future increases in water requirements, and
6 the size of the dam shall not be limited by the amount
7 of water initially authorized by the commission to be
8 impounded therein.

9 Sec. 9. The district is empowered to acquire
10 land within or without the boundaries of the district,
11 and to construct, lease or otherwise acquire all
12 works, plants and other facilities necessary or useful
13 for the purpose of diverting, further impounding or
14 storing water, processing such water and transporting
15 it to cities and others for agricultural, municipal,
16 domestic, industrial, oil field flooding, and mining
17 purposes.

18 Sec. 12. . . . The district is hereby empowered
19 to lease or acquire rights in and to storage and
20 storage capacity in any reservoir constructed or to be
21 constructed by any person, firm, corporation or public
22 agency or from the United States Government or any of
23 its agencies.

24 Revisor's Note

25 (1) Section 3, Chapter 438, Acts of the 63rd
26 Legislature, Regular Session, 1973, authorizes the
27 district to "improve, enlarge and extend" its water
28 system. The revised law omits that provision because
29 it duplicates, in substance, Section 49.211, Water
30 Code. The omitted law reads:

31 Sec. 3. . . . [The district shall
32 . . . have power] . . . to improve, enlarge
33 and extend its water system. . . .

34 (2) Section 3, Chapter 438, Acts of the 63rd
35 Legislature, Regular Session, 1973, authorizes the
36 district to contract for the purchase of water. The
37 revised law omits that provision because it
38 duplicates, in substance, part of Section 49.213(c),
39 Water Code, which authorizes contracts to purchase or
40 sell water. The omitted law reads:

41 Sec. 3. . . . The district is also
42 empowered to make contracts for the
43 purchase of water;

44 (3) Section 3, Chapter 438, Acts of the 63rd
45 Legislature, Regular Session, 1973, authorizes the
46 district to impound, store, control, and conserve
47 certain waters, "including but not limited to" certain

1 specified waters. The revised law omits "but not
2 limited to" because Section 311.005(13), Government
3 Code (Code Construction Act), provides that "includes"
4 and "including" are terms of enlargement and not of
5 limitation and do not create a presumption that
6 components not expressed are excluded.

7 (4) Section 3, Chapter 438, Acts of the 63rd
8 Legislature, Regular Session, 1973, refers to "Chapter
9 1, Title 128, Revised Civil Statutes of Texas, as
10 amended." The pertinent parts of Chapter 1, Title 128,
11 Revised Statutes, were codified as Subchapters A-D,
12 Chapter 11, and Subchapter B, Chapter 12, Water Code,
13 by Section 1, Chapter 58, Acts of the 62nd Legislature,
14 Regular Session, 1971, and Section 1, Chapter 870,
15 Acts of the 65th Legislature, Regular Session, 1977,
16 and the revised law is drafted accordingly.

17 (5) Section 12, Chapter 438, Acts of the 63rd
18 Legislature, Regular Session, 1973, refers to any
19 "person, firm, corporation or public agency." The
20 revised law substitutes "person" for the quoted
21 language because Section 311.005(2), Government Code
22 (Code Construction Act), defines "person" to include
23 any legal entity.

24 (6) Section 12, Chapter 438, Acts of the 63rd
25 Legislature, Regular Session, 1973, refers to the
26 United States "Government or any of its agencies." The
27 revised law omits the quoted language because Section
28 311.005(9), Government Code (Code Construction Act),
29 defines the United States to include its agencies.

30 Revised Law

31 Sec. 8509.0152. GENERAL PROPERTY POWER. In addition to
32 powers granted the district under other law, the district has the
33 power to purchase, construct, maintain, or in any other manner
34 acquire, provide, and develop all works, facilities, improvements,

1 lands, easements, and properties that may be necessary or useful in
2 fulfilling any district purpose. (Acts 63rd Leg., R.S., Ch. 438,
3 Sec. 11 (part).)

4 Source Law

5 Sec. 11. . . . The district is further
6 authorized and empowered to purchase, construct,
7 maintain, or in any other lawful manner to acquire,
8 provide and develop all works, facilities,
9 improvements, lands, easements and properties, which
10 may be necessary or useful in fulfilling the purposes
11 of the district or any of them.

12 Revisor's Note

13 Section 11, Chapter 438, Acts of the 63rd
14 Legislature, Regular Session, 1973, permits the
15 district to acquire, provide, and develop works,
16 facilities, improvements, lands, easements, and
17 properties in any "lawful" manner. The revised law
18 omits the word "lawful" as unnecessary because the
19 district would not, in the absence of the term, have
20 the power to act unlawfully.

21 Revised Law

22 Sec. 8509.0153. CONTRACTS TO SUPPLY WATER AND OPERATE
23 FACILITIES. (a) The district may contract with a municipality or
24 other entity to supply water to the municipality or entity.

25 (b) The district may contract with a municipality for the
26 rental or leasing of or for the operation of the municipality's
27 water production, water supply, and water filtration or
28 purification facilities on the consideration agreed to by the
29 district and the municipality.

30 (c) A contract entered into under this section may:

31 (1) be on terms and for the time agreed to by the
32 parties; and

33 (2) provide that the contract will continue in effect
34 until bonds specified in the contract and refunding bonds issued in
35 lieu of the bonds are paid. (Acts 63rd Leg., R.S., Ch. 438, Sec. 6.)

36 Source Law

37 Sec. 6. The district is authorized to enter into

1 contracts with cities and others for supplying water
2 to them. The district is also authorized to contract
3 with any city for the rental or leasing of, or for the
4 operation of the water production, water supply, and
5 water filtration or purification facilities of such
6 city upon such consideration as the district and the
7 city may agree. Any such contract may be upon such
8 terms and for such time as the parties may agree, and
9 it may provide that it shall continue in effect until
10 bonds specified therein and refunding bonds issued in
11 lieu of such bonds are paid.

12 Revised Law

13 Sec. 8509.0154. CONTROL OF STORM AND FLOOD WATERS. The
14 district may:

15 (1) control, store, conserve, protect, distribute,
16 and use the storm and flood waters in the district for all useful
17 purposes permitted by law; and

18 (2) implement flood prevention and control measures in
19 the district and prevent or aid in preventing damage to district
20 lands and the soil and fertility of those lands. (Acts 63rd Leg.,
21 R.S., Ch. 438, Sec. 11 (part).)

22 Source Law

23 Sec. 11. The district herein created shall be
24 and it is hereby empowered to control, store,
25 conserve, protect, distribute and utilize the storm
26 and flood waters within the area of the district for
27 all useful purposes permitted by law; also, to carry
28 out flood prevention and control measures within the
29 district and to prevent or aid in preventing damage to
30 the lands of the district and the soil and fertility
31 thereof;

32 Revised Law

33 Sec. 8509.0155. DISTRICT TO RECEIVE AND ACCEPT TECHNICAL
34 AND FINANCIAL ASSISTANCE. The district may receive and accept
35 technical and financial assistance from other districts or state
36 agencies or from the United States to accomplish the purposes
37 described by Sections 8509.0152 and 8509.0154. (Acts 63rd Leg.,
38 R.S., Ch. 438, Sec. 11 (part).)

39 Source Law

40 Sec. 11. [The district . . . is hereby
41 empowered . . . to cooperate with all other districts,
42 departments or agencies of the State Government, or
43 any agency, representative, instrumentality or
44 department of the United States Government; and] to
45 receive and accept technical and financial assistance
46 therefrom in the accomplishment of the purposes
47 described by this section. . . .

1 modify an appropriation permit obtained by the district from the
2 commission to increase or decrease the amount of water that may be
3 appropriated and the amount that may be stored by the district to
4 meet fluctuating demands.

5 (c) On application by the district or by the commission's
6 own action, the commission shall redetermine the maximum amount of
7 water that the district may store in the district's reservoir. In
8 making this determination, the commission shall consider the needs
9 of the municipalities and other entities that purchase water from
10 the district.

11 (d) The district may acquire a water appropriation permit
12 from a permit owner. (Acts 63rd Leg., R.S., Ch. 438, Secs. 7, 12
13 (part).)

14 Source Law

15 Sec. 7. The district is empowered to obtain
16 through appropriate hearings an appropriation permit
17 or permits from the commission, as provided in Chapter
18 1 of Title 128, Revised Civil Statutes of 1925, as
19 amended. Thereafter such permit, either upon
20 application of the district or at the will of the
21 commission, may be modified by the commission after an
22 appropriate hearing to increase or decrease the amount
23 of water which may be appropriated and the amount which
24 may be stored by the district to meet fluctuating
25 demands. On application by the district or by its own
26 action the commission shall redetermine the maximum
27 amount of water which the district may store in its
28 reservoir and in making such determination it shall
29 consider the needs of the cities and others that
30 purchase water from the district.

31 Sec. 12. The district is authorized to acquire
32 water appropriation permits from owners of permits.
33 . . .

34 Revisor's Note

35 Section 7, Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to "Chapter
37 1 of Title 128, Revised Civil Statutes of 1925, as
38 amended." The revised law substitutes a reference to
39 "Subchapters A-D, Chapter 11, and Subchapter B,
40 Chapter 12, Water Code," for the reason stated in
41 Revisor's Note (4) to Section 8509.0151.

1 Revised Law

2 Sec. 8509.0157. UNDERGROUND SOURCES OF WATER. The district
3 may not develop or otherwise acquire underground sources of water.
4 (Acts 63rd Leg., R.S., Ch. 438, Sec. 5(a) (part).)

5 Source Law

6 (a) . . . The Authority is not authorized to
7 develop or otherwise acquire underground sources of
8 water.

9 Revisor's Note

10 Section 5(a), Chapter 438, Acts of the 63rd
11 Legislature, Regular Session, 1973, refers to the
12 district as the "Authority." The revised law
13 substitutes "district" for "Authority" to more closely
14 conform to the name of the district and because
15 "district" is the defined term under this chapter used
16 to refer to the district.

17 Revised Law

18 Sec. 8509.0158. LIMITATION ON CONSTRUCTION OF CERTAIN
19 FACILITIES. The district may not construct a dam or other facility
20 for impounding water unless the plans for the dam or facility are
21 approved by the commission. (Acts 63rd Leg., R.S., Ch. 438, Sec.
22 5(a) (part).)

23 Source Law

24 Sec. 5. (a) The district may not construct a
25 dam or other facility for impounding water until the
26 plans therefor are approved by the commission. . . .

27 Revised Law

28 Sec. 8509.0159. DISPOSAL OF DISTRICT PROPERTY. The
29 district may sell, trade, or otherwise dispose of any property
30 considered by the district not to be needed for district purposes,
31 subject to the terms of any deed of trust or other indenture. (Acts
32 63rd Leg., R.S., Ch. 438, Sec. 5(b).)

33 Source Law

34 (b) The district may sell, trade, or otherwise
35 dispose of any real or personal property deemed by the
36 district not to be needed for district purposes,
37 subject to the terms of any deed of trust or other
38 indenture.

1 Revisor's Note

2 Section 5(b), Chapter 438, Acts of the 63rd
3 Legislature, Regular Session, 1973, refers to "real or
4 personal property." The revised law substitutes
5 "property" for the quoted language because under
6 Section 311.005(4), Government Code (Code
7 Construction Act), "property" means "real and personal
8 property."

9 Revised Law

10 Sec. 8509.0160. EMINENT DOMAIN. (a) To carry out a power
11 conferred by this chapter, the district may exercise the power of
12 eminent domain to acquire:

13 (1) the fee simple title to land and other property and
14 easements inside the district, including land needed for a
15 reservoir or dam or a flood easement above the probable high-water
16 line around a reservoir; and

17 (2) the fee simple title to land and other property and
18 easements outside the district, except for land, other property,
19 and easements to be used for a dam or facility for the impoundment
20 or storage of water.

21 (b) The district must exercise the power of eminent domain
22 in the manner provided by Chapter 21, Property Code.

23 (c) The district is a municipal corporation for the purposes
24 of Section 21.021, Property Code.

25 (d) The district may not exercise the power of eminent
26 domain to acquire property owned by any other political
27 subdivision.

28 (e) In exercising the power of eminent domain against a
29 person that has the power of eminent domain or a receiver or trustee
30 for that person, the district may acquire an easement only and not
31 the fee title.

32 (f) The board shall determine the amount of and the type of
33 interest in land, other property, or easements to be acquired under
34 this section.

1 (g) The district's authority under this section to exercise
2 the power of eminent domain expired on September 1, 2013, unless the
3 district submitted a letter to the comptroller in accordance with
4 Section 2206.101(b), Government Code, not later than December 31,
5 2012. (Acts 63rd Leg., R.S., Ch. 438, Sec. 10; New.)

6 Source Law

7 Sec. 10. (a) For the purpose of carrying out
8 any power or authority conferred by this Act the
9 district shall have the right to acquire by
10 condemnation in the manner provided by Title 52,
11 Revised Statutes, as amended, relating to eminent
12 domain:

13 (1) the fee simple title to land and other
14 property and easements (including land needed for the
15 reservoir and dam and flood easements above the
16 probable high water line around any such reservoirs)
17 within the boundaries of the district; and

18 (2) the fee simple title to land and other
19 property and easements (except for land, other
20 property, and easements to be used for a dam or dams or
21 facilities for the impoundment or storage of water)
22 outside the boundaries of the district.

23 (b) The district is hereby declared to be a
24 municipal corporation within the meaning of Article
25 3268 of said Title 52, except that the district shall
26 not have the right to so condemn any property which may
27 be owned by any other political subdivision, city or
28 town; provided, however, that as against persons,
29 firms and corporations, or receivers or trustees
30 thereof, who have the power of eminent domain, the fee
31 title may not be condemned, but the district may
32 condemn only an easement. The amount of and character
33 of interest in land, other property and easements thus
34 to be acquired shall be determined by the board.

35 Revisor's Note

36 (1) Section 10(a), Chapter 438, Acts of the 63rd
37 Legislature, Regular Session, 1973, refers to any
38 "power or authority" of the district. The revised law
39 omits "authority" in this context because "authority"
40 is included in the meaning of "power."

41 (2) Section 10(a), Chapter 438, Acts of the 63rd
42 Legislature, Regular Session, 1973, provides that "the
43 district shall have the right to acquire by
44 condemnation . . . [certain property]." The revised
45 law substitutes for the quoted language "the district
46 may exercise the power of eminent domain to acquire
47 [certain property]" because the phrases have the same

1 meaning and the latter is consistent with modern usage
2 in laws relating to eminent domain.

3 (3) Section 10(a), Chapter 438, Acts of the 63rd
4 Legislature, Regular Session, 1973, refers to Title
5 52, Revised Statutes, as amended. The relevant
6 provisions of Title 52 were codified as Chapter 21,
7 Property Code, by Chapter 576, Acts of the 68th
8 Legislature, Regular Session, 1983. The revised law
9 is drafted accordingly.

10 (4) Section 10, Chapter 438, Acts of the 63rd
11 Legislature, Regular Session, 1973, grants the
12 district the power of eminent domain, subject to
13 certain limitations. Section 2206.101, Government
14 Code, required an entity with eminent domain authority
15 to submit a letter with certain information to the
16 comptroller not later than December 31, 2012, to
17 prevent the entity's eminent domain authority from
18 expiring on September 1, 2013. To avoid the appearance
19 that this revision recognizes authority that the
20 district may not possess at the time of the revision,
21 the revised law includes a provision setting out the
22 requirements of Section 2206.101, Government Code.

23 (5) Section 10(b), Chapter 438, Acts of the 63rd
24 Legislature, Regular Session, 1973, refers to Article
25 3268, Revised Statutes. The applicable part of that
26 statute was codified as Section 21.021, Property Code,
27 by Chapter 576, Acts of the 68th Legislature, Regular
28 Session, 1983. The revised law is drafted
29 accordingly.

30 (6) Section 10(b), Chapter 438, Acts of the 63rd
31 Legislature, Regular Session, 1973, refers to a
32 "political subdivision, city or town." The revised
33 law omits the reference to "city or town" because those
34 terms are included in the meaning of "political

subdivision."

(7) Section 10(b), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, refers to "persons, firms and corporations." The revised law substitutes "person" for the quoted language for the reason stated in Revisor's Note (5) to Section 8509.0151.

Revised Law

Sec. 8509.0161. COST OF RELOCATING OR ALTERING PROPERTY. If the district's exercise of the power of eminent domain, the power of relocation, or any other power granted by this chapter makes necessary relocating, raising, rerouting, changing the grade of, or altering the construction of a highway, railroad, electric transmission line, telephone or telegraph property or facility, or pipeline, the necessary action shall be accomplished at the district's sole expense. (Acts 63rd Leg., R.S., Ch. 438, Sec. 15.)

Source Law

Sec. 15. In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the district.

Revised Law

Sec. 8509.0162. CERTAIN POWERS RELATED TO DISTRICT PROPERTY. The district may:

(1) lease the hunting rights on property owned by the district;

(2) develop, manage, or lease property owned by the district for any recreational purpose; and

(3) lease property owned by the district to a person seeking to develop renewable energy resources. (Acts 63rd Leg., R.S., Ch. 438, Sec. 3A.)

1 Source Law

2 Sec. 3A. The district may:

3 (1) lease the hunting rights on property
4 owned by the district;

5 (2) develop, manage, or lease property
6 owned by the district for any recreational purpose;
7 and

8 (3) lease property owned by the district
9 to a person seeking to develop renewable energy
10 resources.

11 Revised Law

12 Sec. 8509.0163. PARKS AND RECREATION FACILITIES. The
13 district may establish or otherwise provide for public parks and
14 recreation facilities and may acquire land in the district for
15 those purposes. (Acts 63rd Leg., R.S., Ch. 438, Sec. 14.)

16 Source Law

17 Sec. 14. The district is authorized to
18 establish or otherwise provide for public parks and
19 recreation facilities, and to acquire land for such
20 purposes within the district.

21 Revised Law

22 Sec. 8509.0164. SURVEYS AND INVESTIGATIONS. The board may
23 conduct a survey or an engineering investigation to provide
24 information for the district to facilitate the accomplishment of a
25 district purpose. (Acts 63rd Leg., R.S., Ch. 438, Sec. 19 (part).)

26 Source Law

27 Sec. 19. The board, from time to time, shall be
28 authorized to make or cause to be made surveys and
29 engineering investigations for the information of the
30 district to facilitate the accomplishment of the
31 purposes for which the district is created; and

32 Revisor's Note

33 Section 19, Chapter 438, Acts of the 63rd
34 Legislature, Regular Session, 1973, provides that the
35 board may "make or cause to be made" certain surveys
36 and engineering investigations. The revised law omits
37 the reference to the board's authority to "cause [the
38 surveys and investigations] to be made" because the
39 authority to "make" the surveys and investigations
40 implies the ability to "cause [the surveys and
41 investigations] to be made."

1 SUBCHAPTER E. REGULATORY POWERS

2 Revised Law

3 Sec. 8509.0201. ADOPTION OF RULES. The board may adopt
4 reasonable rules to:

5 (1) secure, maintain, and preserve the sanitary
6 condition of water in and water that flows into any reservoir owned
7 by the district;

8 (2) prevent waste of or the unauthorized use of water;
9 and

10 (3) regulate residence, hunting, fishing, boating,
11 camping, and any other recreational or business privilege along or
12 around any reservoir, body of land, or easement owned by the
13 district. (Acts 63rd Leg., R.S., Ch. 438, Sec. 13(a).)

14 Source Law

15 Sec. 13. (a) The board shall have the power to
16 adopt and promulgate all reasonable regulations to
17 secure, maintain, and preserve the sanitary condition
18 of all water in and to flow into any reservoir owned by
19 the district, to prevent waste of water or the
20 unauthorized use thereof, and to regulate residence,
21 hunting, fishing, boating and camping, and all
22 recreational and business privileges, along or around
23 any such reservoir, body of land, or easement owned by
24 the district.

25 Revisor's Note

26 (1) Section 13(a), Chapter 438, Acts of the 63rd
27 Legislature, Regular Session, 1973, refers to the
28 district's power to "adopt and promulgate" reasonable
29 regulations. The revised law omits the reference to
30 "promulgate" because, in context, the authority to
31 "promulgate" a rule is implicit in the authority to
32 "adopt" a rule.

33 (2) Section 13(a), Chapter 438, Acts of the 63rd
34 Legislature, Regular Session, 1973, refers to
35 "regulations" adopted by the district. Throughout
36 this chapter, the revised law substitutes "rules" for
37 "regulations" or "rules and regulations" because, in
38 context, the terms are synonymous and under Section

1 311.005(5), Government Code (Code Construction Act), a
2 rule is defined to include a regulation.

3 Revised Law

4 Sec. 8509.0202. ENFORCEMENT OF RULES; PENALTY. (a) The
5 district by rule may prescribe reasonable penalties for the
6 violation of a district rule.

7 (b) A penalty may consist of a fine not to exceed \$200.

8 (c) A penalty prescribed under this section is in addition
9 to any other penalty provided by the laws of this state. (Acts 63rd
10 Leg., R.S., Ch. 438, Sec. 13(b) (part).)

11 Source Law

12 (b) The district may prescribe reasonable
13 penalties for the breach of any regulation of the
14 district, which penalties shall not exceed fines of
15 more than Two Hundred Dollars (\$200.). The penalties
16 hereby authorized shall be in addition to any other
17 penalties provided by the laws of Texas and . . .
18 [provided, however, that no rule or regulation which
19 provides a penalty for the violation thereof]

20 Revisor's Note

21 Section 13(b), Chapter 438, Acts of the 63rd
22 Legislature, Regular Session, 1973, provides that a
23 criminal penalty adopted by the board may be enforced
24 by complaints filed in the appropriate court. The
25 revised law omits the reference to complaints because
26 the Code of Criminal Procedure, applicable to all
27 criminal proceedings in this state under Article 1.02
28 of that code, provides that the prosecution of an
29 offense may be initiated by the filing of a complaint
30 before a magistrate or a district or county attorney.
31 The revised law omits the reference to "the
32 appropriate court of jurisdiction" because the
33 constitution and general laws of this state determine
34 which courts have jurisdiction to accept a criminal
35 complaint charging the violation of a rule adopted by
36 the board for which the board has also adopted a
37 penalty under this section. The omitted law reads:

1 (b) . . . [The penalties] . . . may
2 be enforced by complaints filed in the
3 appropriate court of jurisdiction,

4 Revised Law

5 Sec. 8509.0203. NOTICE OF RULE PROVIDING PENALTY. (a) If
6 the district adopts a rule that provides a penalty, the district
7 must publish a substantive statement of the rule and the penalty
8 once a week for two consecutive weeks in each county in which any
9 part of the reservoir to which the rule applies is situated.

10 (b) A single statement must be as condensed as possible so
11 that the act prohibited by the rule can be easily understood.

12 (c) The statement may include notice of any number of rules.

13 (d) The notice must state that:

14 (1) a person who violates the rule is subject to a
15 penalty; and

16 (2) the rule is on file in the district's principal
17 office, where the rule may be read by any interested person.

18 (e) A rule takes effect five days after the date of second
19 publication of the statement under this section. (Acts 63rd Leg.,
20 R.S., Ch. 438, Sec. 13(b) (part).)

21 Source Law

22 (b) . . . provided, however, that no rule or
23 regulation which provides a penalty for the violation
24 thereof shall be in effect, as to enforcement of the
25 penalty, until five (5) days next after the district
26 may have caused a substantive statement of the
27 particular rule or regulation and the penalty for the
28 violation thereof to be published, once a week for two
29 (2) consecutive weeks in the county in which such
30 reservoir is situated, or in any county in which it is
31 partly situated. The substantive statement so to be
32 published shall be as condensed as is possible to
33 afford an intelligent direction of the mind to the act
34 forbidden by the rule or regulation; one (1) notice may
35 embrace any number of regulations; there must be
36 embraced in the notice advice that breach of the
37 particular regulation, or regulations, will subject
38 the violator to the infliction of a penalty and there
39 also shall be included in the notice advice that the
40 full text of the regulations sought to be enforced is
41 on file in the principal office of the district, where
42 the same may be read by any interested person. Five
43 (5) days after the second publication of the notice
44 hereby required, the advertised regulation shall be in
45 effect, and ignorance of any such regulation shall not
46 constitute a defense to a prosecution for the
47 enforcement of a penalty and,

1 Revisor's Note

2 Section 13(b), Chapter 438, Acts of the 63rd
3 Legislature, Regular Session, 1973, provides that
4 "ignorance of any such regulation shall not constitute
5 a defense to a prosecution for the enforcement of a
6 penalty." The revised law omits the quoted language
7 because it duplicates, in substance, Section 8.03(a),
8 Penal Code, which applies under Section 1.03(b) of
9 that code to a violation of a rule adopted by the board
10 for which the board has prescribed a penalty. Section
11 8.03(a), Penal Code, provides that after a law has
12 taken effect, ignorance of the provisions of the law is
13 not a defense to prosecution.

14 Revised Law

15 Sec. 8509.0204. JUDICIAL NOTICE OF RULES. A court shall
16 take judicial notice of a rule adopted under this subchapter and
17 published as required by Section 8509.0203, and the court shall
18 consider the rule to be similar in nature to a penal ordinance of a
19 municipality. (Acts 63rd Leg., R.S., Ch. 438, Sec. 13(b) (part).)

20 Source Law

21 (b) . . . the rules and regulations authorized
22 hereby, after the required publication, shall
23 judicially be known to the courts and shall be
24 considered of a nature like unto that of valid penal
25 ordinance of a city of the state.

26 Revisor's Note

27 Section 13(b), Chapter 438, Acts of the 63rd
28 Legislature, Regular Session, 1973, refers to a "valid
29 penal ordinance of a city of the state." The revised
30 law omits "valid" as unnecessary because the word does
31 not add to the clear meaning of the law. An ordinance
32 is not an ordinance if it is not valid.

33 Revised Law

34 Sec. 8509.0205. ENFORCEMENT BY PEACE OFFICERS. (a) A
35 licensed peace officer may make an arrest when necessary to prevent
36 or abate the commission of an offense:

1 (1) in violation of a district rule or a law of this
2 state that occurs or threatens to occur on any land, water, or
3 easement owned or controlled by the district; or

4 (2) involving damage to any property owned or
5 controlled by the district.

6 (b) A peace officer may make an arrest under Subsection
7 (a)(2) at any location. (Acts 63rd Leg., R.S., Ch. 438, Sec.
8 13(c).)

9 Source Law

10 (c) Any duly constituted peace officer,
11 provided such officers meet the Texas Law Officers
12 minimum certification requirements, shall have the
13 power to make arrests when necessary to prevent or
14 abate the commission of any offense against the
15 regulations of the district, and against the laws of
16 the State of Texas, when any such offense or threatened
17 offense occurs upon any land, water or easement owned
18 or controlled by the district, or to make such arrest
19 at any place, in case of an offense involving injury or
20 detriment to any property owned or controlled by such
21 district.

22 Revisor's Note

23 (1) Section 13(c), Chapter 438, Acts of the 63rd
24 Legislature, Regular Session, 1973, refers to a "duly
25 constituted peace officer, provided such officers meet
26 the Texas Law Officers minimum certification
27 requirements." The revised law substitutes "licensed
28 peace officer" for the quoted language because
29 Subchapter G, Chapter 1701, Occupations Code, which
30 regulates the licensing of peace officers, requires a
31 person employed as a peace officer to hold a license
32 issued by the Texas Commission on Law Enforcement.

33 (2) Section 13(c), Chapter 438, Acts of the 63rd
34 Legislature, Regular Session, 1973, refers to an
35 offense involving "injury or detriment." The revised
36 law substitutes "damage" for "injury or detriment"
37 because "damage" conforms to the terminology of the
38 Penal Code regarding property offenses.

39 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

1 Revised Law

2 Sec. 8509.0251. TAX METHOD. (a) The district shall use the
3 ad valorem plan of taxation.

4 (b) The board is not required to hold a hearing on the
5 adoption of a plan of taxation. (Acts 63rd Leg., R.S., Ch. 438,
6 Sec. 16 (part).)

7 Source Law

8 Sec. 16. It shall not be necessary for the board
9 . . . to hold . . . a hearing on the adoption of a plan
10 of taxation, but the ad valorem plan of taxation shall
11 be used by the district.

12 Revised Law

13 Sec. 8509.0252. AUTHORITY TO IMPOSE TAX; LIMITATION ON TAX
14 RATE; TAX ELECTION. (a) If a tax is authorized at an election under
15 Section 49.107, Water Code, the district annually may impose an ad
16 valorem tax on the taxable property in the district to provide
17 money:

18 (1) necessary to construct or acquire, maintain, and
19 operate dams, works, plants, and facilities considered essential or
20 beneficial to the district and the district's purposes; or

21 (2) adequate to defray the cost of the district's
22 maintenance, operation, and administration.

23 (b) The district may not impose an ad valorem tax for the
24 district's maintenance, operation, and administration that exceeds
25 50 cents on the \$100 assessed valuation of the taxable property in
26 the district.

27 (c) An election for the imposition of taxes authorized by
28 this section must be:

29 (1) ordered by the board; and

30 (2) held and conducted in the manner provided by this
31 chapter relating to elections for the authorization of bonds.
32 (Acts 63rd Leg., R.S., Ch. 438, Sec. 27 (part).)

33 Source Law

34 Sec. 27. The district may upon a favorable
35 majority vote of the qualified property taxpaying
36 electors of the district voting at an election held
37 within the boundaries of the district for that

1 purpose, levy, assess and collect annual taxes to
2 provide funds necessary to construct or acquire,
3 maintain and operate dams, works, plants and
4 facilities deemed essential or beneficial to the
5 district and its purposes, and also when so authorized
6 may levy, assess and collect annual taxes as provided
7 by the Tax Code to provide funds adequate to defray the
8 cost of the maintenance, operation and administration
9 of the district; provided, however, that the district
10 shall not have the power to levy or collect a tax for
11 the maintenance, operation, and administration of the
12 district which exceeds fifty cents (50¢) on the One
13 Hundred Dollars (\$100) assessed valuation on the
14 property subject to taxation. Elections for the levy
15 of such taxes shall be ordered by the board and shall
16 be held and conducted in the manner provided by this
17 law relating to elections for the authorization of
18 bonds.

19 Revisor's Note

20 (1) Section 27, Chapter 438, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that the
22 district may impose taxes if authorized by "a
23 favorable majority vote of the qualified property
24 taxpaying electors of the district voting at an
25 election held within the boundaries of the district
26 for that purpose." The revised law substitutes a
27 reference to Section 49.107, Water Code, parts of
28 which duplicate in substance provisions of Section 27.

29 To the extent that Section 27 limits the election
30 to "qualified" voters, the revised law omits the
31 requirement as unnecessary in this context because
32 Chapter 11, Election Code, governs eligibility to vote
33 in an election in this state and allows only
34 "qualified" voters to vote in an election.

35 To the extent that Section 27 purports to limit
36 the election to "property taxpaying electors," the
37 revised law omits the requirement because in Hill v.
38 Stone, 421 U.S. 289 (1975), the United States Supreme
39 Court determined that property ownership as a
40 qualification for voting is an unconstitutional denial
41 of equal protection.

42 (2) Section 27, Chapter 438, Acts of the 63rd
43 Legislature, Regular Session, 1973, authorizes the

1 district to levy, assess, and collect taxes to provide
2 "funds" necessary or adequate for certain purposes.
3 Throughout this chapter, the revised law substitutes
4 "money" for "funds" (except where a specific type of
5 fund is indicated) because, in context, the meaning is
6 the same and "money" is the more commonly used term.

7 (3) Section 27, Chapter 438, Acts of the 63rd
8 Legislature, Regular Session, 1973, provides that the
9 district may levy, assess, and collect taxes "as
10 provided by the Tax Code" for certain purposes. The
11 quoted language is omitted from the revised law as
12 unnecessary. Any taxes imposed in the state must be
13 imposed as provided by law, and therefore language
14 requiring conformity with the Tax Code is unnecessary.

15 (4) Section 27, Chapter 438, Acts of the 63rd
16 Legislature, Regular Session, 1973, requires the board
17 to designate polling places for an election for the
18 levy of the taxes authorized by that section. The
19 revised law omits the provision because it duplicates
20 in substance Section 43.004, Election Code. That
21 section applies to the district under Section 1.002,
22 Election Code. The omitted law reads:

23 Sec. 27. . . . The board shall
24 designate such polling places as they deem
25 fitting and proper.

26 Revised Law

27 Sec. 8509.0253. DEPOSITORY. (a) The board shall designate
28 one or more banks in the district to serve as depository for the
29 district's money.

30 (b) District money shall be deposited with a designated
31 depository bank or banks, except that:

32 (1) money pledged to pay bonds may be deposited with
33 the trustee bank named in the trust agreement; and

34 (2) money shall be remitted to the bank of payment for
35 the payment of principal of and interest on bonds.

1 (c) To the extent that money in a depository bank or a
2 trustee bank is not insured by the Federal Deposit Insurance
3 Corporation, the money must be secured in the manner provided by law
4 for the security of county funds.

5 (d) The board shall prescribe the terms of service for
6 depositories.

7 (e) Before designating a depository bank, the board shall
8 issue a notice that:

9 (1) states the time and place at which the board will
10 meet to designate a depository bank or banks; and

11 (2) invites the banks in the district to submit an
12 application to be designated as a depository.

13 (f) The notice must be published one time in a newspaper or
14 newspapers published in the district and specified by the board.

15 (g) At the time stated in the notice, the board shall:

16 (1) consider the application and the management and
17 condition of each bank that applies; and

18 (2) designate as a depository the bank or banks that:

19 (A) offer the most favorable terms for handling
20 the money; and

21 (B) the board finds have proper management and
22 are in condition to handle the money.

23 (h) Membership on the board of an officer or director of a
24 bank does not disqualify the bank from being designated as a
25 depository.

26 (i) If the board does not receive any applications before
27 the time stated in the notice, the board shall designate one or more
28 banks located inside or outside the district on terms that the board
29 finds advantageous to the district. (Acts 63rd Leg., R.S., Ch. 438,
30 Sec. 29.)

31 Source Law

32 Sec. 29. (a) The board shall designate one (1)
33 or more banks within the district to serve as
34 depository for the funds of the district. All funds of
35 the district shall be deposited in such depository
36 bank or banks except that funds pledged to pay bonds

1 may be deposited with the trustee bank named in the
2 trust agreement, and except that funds shall be
3 remitted to the bank of payment for the payment of
4 principal of and interest on bonds. To the extent that
5 funds in the depository banks and the trustee bank are
6 not insured by the F.D.I.C. they shall be secured in
7 the manner provided by law for the security of county
8 funds.

9 (b) Before designating a depository bank or
10 banks, the board shall issue a notice stating the time
11 and place when and where the board will meet for such
12 purpose and inviting the banks in the district to
13 submit applications to be designated depositories.
14 The term of service for depositories shall be
15 prescribed by the board. Such notice shall be
16 published one (1) time in a newspaper or newspapers
17 published in the district and specified by the board.

18 (c) At the time mentioned in the notice, the
19 board shall consider the applications and the
20 management and condition of the banks filing them, and
21 shall designate as depositories the bank or banks
22 which offer the most favorable terms and conditions
23 for the handling of the funds of the district and which
24 the board finds have proper management and are in
25 condition to warrant handling of district funds.
26 Membership on the board of an officer or director of a
27 bank shall not disqualify such bank from being
28 designated as depository.

29 (d) If no applications are received by the time
30 stated in the notice, the board shall designate some
31 bank or banks within or without the district upon such
32 terms and conditions as it may find advantageous to the
33 district.

34 Revisor's Note

35 (1) Section 29(a), Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to the
37 "F.D.I.C." The revised law substitutes a reference to
38 the "Federal Deposit Insurance Corporation" because
39 that is the full name of that entity.

40 (2) Sections 29(c) and (d), Chapter 438, Acts of
41 the 63rd Legislature, Regular Session, 1973, refer to
42 proposed or agreed "terms and conditions" for serving
43 as the district's depository. The revised law omits
44 "conditions" because, in context, the meaning of
45 "conditions" is included in the meaning of "terms."

46 Revised Law

47 Sec. 8509.0254. PAYMENT OF TAX OR ASSESSMENT NOT REQUIRED.
48 The district is not required to pay a tax or assessment on a
49 district project or any part of the project. (Acts 63rd Leg., R.S.,
50 Ch. 438, Sec. 26 (part).)

1 acting as boards of equalization.

2 (e) The board shall be authorized to
3 have the taxable property in the district
4 assessed, its values equalized, and/or its
5 taxes collected, in whole or in part, by the
6 tax assessors, board of equalization,
7 and/or tax collectors, respectively, of any
8 county, city, taxing district, or other
9 governmental subdivision in which all or
10 any part of the district is located; and
11 such property may be assessed and the values
12 thereof equalized on the same basis or a
13 different basis than that used by any such
14 governmental subdivision. Such property
15 shall be assessed, the values thereof
16 equalized, and such taxes collected in the
17 manner and for such compensation as shall be
18 agreed on between the appropriate parties,
19 and the functions thus assumed by the
20 officials of any such governmental
21 subdivision shall be additional duties
22 pertaining to their offices, respectively.
23 The ad valorem tax law applicable to each
24 such governmental subdivision shall apply
25 to its officials in carrying out such
26 functions for the district.

27 (f) It is specifically provided,
28 however, that under any method used all
29 taxable property within the district shall
30 be assessed on the same basis, and the
31 values thereof shall be equalized by only
32 one board of equalization, in an equal and
33 uniform manner, as required by the Texas
34 Constitution. If the board desires that
35 taxable property shall be assessed and
36 taxes collected by the tax assessors and/or
37 collectors of more than one governmental
38 subdivision, the board shall either act as
39 its own board of equalization or appoint
40 three resident, qualified electors of the
41 district who own taxable property therein
42 to act as the board of equalization, and in
43 either case the board of equalization shall
44 qualify and perform the duties prescribed
45 by law for county commissioners courts
46 acting as boards of equalization.

47 (g) Any other method or procedure
48 authorized or permitted by any other
49 statute of the State may be adopted, in
50 whole or in part, to the extent pertinent
51 and practicable.

52 SUBCHAPTER G. BONDS

53 Revised Law

54 Sec. 8509.0301. AUTHORITY TO ISSUE BONDS. (a) The district
55 may issue bonds to carry out any power conferred by this chapter,
56 including to provide a source of water supply for municipalities
57 and other users for agricultural, municipal, domestic, industrial,
58 oil field flooding, and mining purposes.

59 (b) The bonds must be authorized by a board resolution.

(Acts 63rd Leg., R.S., Ch. 438, Secs. 20(a) (part), (b) (part), (c),
(e) (part).)

Source Law

Sec. 20. (a) For the purpose of providing a source of water supply for cities and other users for agricultural, municipal, domestic, industrial, oil field flooding, and mining purposes, as authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the district is empowered to issue its negotiable bonds

(b) Such bonds shall be authorized by resolution of the board and

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(e) The district is also empowered to issue bonds

Revisor's Note

(1) Section 20(a), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, refers to a "power or authority" conferred by that act. The revised law omits the reference to "authority" for the reason stated in Revisor's Note (1) to Section 8509.0160.

(2) Section 20(a), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, authorizes the district to issue "negotiable" bonds. The revised law omits "negotiable" because Section 1201.041, Government Code, provides that a public security is a negotiable instrument. Throughout this chapter, the revised law omits law that is superseded by Chapter 1201, Government Code, or that duplicates law contained in that chapter. Chapter 1201, Government Code, applies to district bonds under Sections 1201.002 and 1201.003, Government Code.

(3) Section 20(c), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, states that district bonds may be issued in "more than one (1) series." The revised law omits the quoted language because it duplicates a provision of Section 1201.022, Government Code.

1 Revised Law

2 Sec. 8509.0302. FORM OF BONDS. District bonds must be:

3 (1) issued in the district's name;

4 (2) signed by the president or vice president; and

5 (3) attested by the secretary. (Acts 63rd Leg., R.S.,
6 Ch. 438, Sec. 20(b) (part).)

7 Source Law

8 (b) [Such bonds] . . . shall be issued in the
9 name of the district, signed by the president or vice
10 president, attested by the secretary and

11 Revisor's Note

12 Section 20(b), Chapter 438, Acts of the 63rd
13 Legislature, Regular Session, 1973, provides that
14 district bonds must bear the seal of the district and
15 authorizes "printed or lithographed" signatures and
16 seals. The revised law omits those provisions as
17 unnecessary. The requirement that the bonds bear the
18 seal of the district was impliedly repealed by Section
19 3, Bond Procedures Act of 1981 (Article 717k-6,
20 Vernon's Texas Civil Statutes) (revised in relevant
21 part in 1999 as Section 1201.026(a), Government Code),
22 which provides that bonds may be signed with or without
23 a seal. The authorization for the use of printed or
24 lithographed signatures duplicates Section
25 1201.026(a), Government Code, which also provides that
26 bonds and interest coupons may be executed with manual
27 or facsimile signatures. The omitted law reads:

28 (b) [Such bonds] . . . shall bear the
29 seal of the district. It is provided,
30 however, that the signatures of the
31 president or of the secretary or of both may
32 be printed or lithographed on the bonds if
33 authorized by the board, and that the seal
34 of the district may be impressed on the
35 bonds or may be printed or lithographed
36 thereon. . . .

37 Revised Law

38 Sec. 8509.0303. MATURITY. District bonds must mature not
39 later than 40 years after the date of their issuance. (Acts 63rd

1 Leg., R.S., Ch. 438, Sec. 20(b) (part)..)

2 Source Law

3 (b) . . . The bonds shall mature serially or
4 otherwise in not to exceed forty (40) years and

5 Revisor's Note

6 Section 20(b), Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, provides that
8 district bonds shall mature "serially or otherwise."
9 The revised law omits the quoted language because it is
10 superseded by Section 1201.021, Government Code
11 (enacted as Section 3, Bond Procedures Act of 1981
12 (Article 717k-6, Vernon's Texas Civil Statutes)),
13 which provides that the governing body of an issuer may
14 determine the time of payment of public securities it
15 issues, and by Section 1201.022, Government Code
16 (enacted as Section 5(a), Bond Procedures Act of 1981
17 (Article 717k-6, Vernon's Texas Civil Statutes)),
18 which provides that a public security may be issued
19 with specified characteristics, on specified terms, or
20 in a specified manner.

21 Revised Law

22 Sec. 8509.0304. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
23 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
24 partly from ad valorem taxes may not be issued unless authorized by
25 a majority vote of the voters voting at an election held for that
26 purpose.

27 (b) The board may call an election under this section
28 without a petition. The resolution calling the election must
29 specify:

30 (1) the time and places at which the election will be
31 held;

32 (2) the purpose for which the bonds will be issued;

33 (3) the maximum amount of the bonds;

34 (4) the maximum maturity of the bonds;

1 (5) the form of the ballot; and

2 (6) the presiding judge for each polling place.

3 (c) Notice of the election must be given by publishing a
4 substantial copy of the resolution calling the election in one
5 newspaper published in each municipality contained in the district
6 for two consecutive weeks. The first publication must be not later
7 than the 21st day before the date of the election. In any
8 municipality in which a newspaper is not published, notice must be
9 given by posting a copy of the resolution in three public places.

10 (d) The district may issue bonds not payable wholly or
11 partly from ad valorem taxes without an election. (Acts 63rd Leg.,
12 R.S., Ch. 438, Secs. 23(a), (b).)

13 Source Law

14 Sec. 23. (a) No bonds payable wholly or
15 partially from ad valorem taxes (except refunding
16 bonds) shall be issued unless authorized by a majority
17 vote of the constitutionally qualified electors voting
18 at such election. Bonds not payable wholly or
19 partially from ad valorem taxes may be issued without
20 an election.

21 (b) Such election may be called by the board
22 without a petition. The resolution calling the
23 election shall specify the time and places of holding
24 the same, the purpose for which the bonds are to be
25 issued, the maximum amount thereof, the maximum
26 maturity thereof, the form of the ballot, and the
27 presiding judge for each voting place. The presiding
28 judge serving at each voting place shall appoint one
29 (1) assistant judge and at least two (2) clerks to
30 assist in holding such election. Notice of the
31 election shall be given by publishing a substantial
32 copy thereof in one (1) newspaper published in each
33 city contained in the district for two (2) consecutive
34 weeks. The first publication shall be at least
35 twenty-one (21) days prior to the election. In any
36 city in which no newspaper is published, notice shall
37 be given by posting a copy of the resolution in three
38 (3) public places.

39 Revisor's Note

40 (1) Section 23(b), Chapter 438, Acts of the 63rd
41 Legislature, Regular Session, 1973, refers to a
42 "voting place." The revised law substitutes "polling
43 place" for "voting place" because "polling place" is
44 the term used in the Election Code.

45 (2) Section 23(b), Chapter 438, Acts of the 63rd
46 Legislature, Regular Session, 1973, provides that

1 "[t]he presiding judge serving at each voting place
2 shall appoint one (1) assistant judge and at least two
3 (2) clerks to assist in holding such election." The
4 revised law omits the quoted language for the reason
5 stated in Revisor's Note (7) to Section 8509.0051.

6 (3) Section 23(c), Chapter 438, Acts of the 63rd
7 Legislature, Regular Session, 1973, provides that the
8 board shall receive and canvass election returns. The
9 revised law omits that provision for the reason stated
10 in Revisor's Note (9) to Section 8509.0051. The
11 omitted law reads:

12 (c) The returns of the election shall
13 be made to and canvassed by the board.

14 (4) Section 23(d), Chapter 438, Acts of the 63rd
15 Legislature, Regular Session, 1973, provides that the
16 general laws relating to elections apply to an
17 election under that section except as otherwise
18 provided by that act. The revised law omits that
19 provision because Section 1.002, Election Code,
20 provides that the Election Code applies to all
21 elections in this state. An exception to the
22 application of the Election Code would apply by its own
23 terms. The omitted law reads:

24 (d) The General Laws relating to
25 elections shall be applicable to elections
26 held under this Section of this law except
27 as otherwise provided in this law.

28 Revised Law

29 Sec. 8509.0305. BONDS PAYABLE FROM REVENUE. (a) In this
30 section, "net revenue" means the district's gross revenue and
31 income from all sources less the amount necessary to pay the cost of
32 maintaining and operating the district and the district's property.

33 (b) Bonds issued under this subchapter may be secured under
34 board resolution by a pledge of:

35 (1) all or part of the district's net revenue;

36 (2) the net revenue of one or more contracts made

1 before or after the issuance of the bonds; or

2 (3) other revenue or income specified by board
3 resolution or in the trust indenture.

4 (c) The pledge may reserve the right to issue additional
5 bonds on a parity with, or subordinate to, the bonds being issued,
6 subject to conditions specified by the pledge. (Acts 63rd Leg.,
7 R.S., Ch. 438, Secs. 20(a) (part), (d).)

8 Source Law

9 (a) . . . the district is empowered to issue
10 . . . bonds to be payable from revenues or . . . as are
11 pledged by resolution of the board. . . .

12 (d) The bonds may be secured by a pledge of all
13 or part of the net revenue of the district, or by the
14 net revenues of any one (1) or more contracts
15 theretofore or thereafter made or other revenue or
16 income specified by resolution of the board or in the
17 trust indenture. Any such pledge may reserve the
18 right, under conditions therein specified, to issue
19 additional bonds which will be on a parity with or
20 subordinate to the bonds then being issued. The term
21 "net revenues" as used in this Section shall mean the
22 gross revenues and income of the district from all
23 sources after deduction of the amount necessary to pay
24 the cost of maintaining and operating the district and
25 its properties.

26 Revised Law

27 Sec. 8509.0306. BONDS PAYABLE FROM AD VALOREM TAXES. The
28 board may issue bonds payable, as pledged by board resolution,
29 from:

30 (1) ad valorem taxes imposed on taxable property in
31 the district; or

32 (2) ad valorem taxes and revenue of the district.
33 (Acts 63rd Leg., R.S., Ch. 438, Secs. 20(a) (part), (e) (part).)

34 Source Law

35 (a) . . . the district is empowered to issue
36 . . . bonds to be payable from . . . taxes or both
37 revenues and taxes of the district as are pledged by
38 resolution of the board. . . .

39 (e) The district is also empowered to issue
40 bonds payable from ad valorem taxes to be levied on all
41 taxable property therein, or to issue bonds secured by
42 and payable from both such taxes and the revenues of
43 the district. . . .

44 Revised Law

45 Sec. 8509.0307. TAX AND RATE REQUIREMENTS. (a) If the

1 district issues bonds payable wholly or partly from ad valorem
2 taxes, the board shall impose an ad valorem tax on the taxable
3 property in the district sufficient to pay the principal of and the
4 interest on the bonds as the bonds and interest become due without
5 limit as to the rate or the amount. The board may adopt the rate of
6 the tax for any year after considering the money received from the
7 pledged revenue available for payment of principal and interest to
8 the extent and in the manner permitted by the resolution
9 authorizing the issuance of the bonds.

10 (b) If the district issues bonds payable wholly or partly
11 from revenue, the board shall set and revise the rates of
12 compensation for water sold and services rendered by the district.

13 (c) For bonds payable wholly from revenue, the rates of
14 compensation must be sufficient to:

15 (1) pay the expense of operating and maintaining the
16 district's facilities;

17 (2) pay the bonds as they mature and the interest as it
18 accrues; and

19 (3) maintain the reserve and other funds as provided
20 by the resolution authorizing the issuance of the bonds.

21 (d) For bonds payable partly from revenue, the rates of
22 compensation must be sufficient to assure compliance with the
23 resolution authorizing the issuance of the bonds. (Acts 63rd Leg.,
24 R.S., Ch. 438, Secs. 20(e) (part), (f), 28(h).)

25 Source Law

26 [Sec. 20]

27 (e) . . . Where bonds are issued payable wholly
28 or partially from ad valorem taxes, it shall be the
29 duty of the board to levy a tax sufficient to pay the
30 bonds and the interest thereon as such bonds and
31 interest become due without limit as to the rate or the
32 amount, but the rate of the tax for any year may be
33 fixed after giving consideration to the money received
34 from the pledged revenues which may be available for
35 payment of principal and interest to the extent and in
36 the manner permitted by the resolution authorizing the
37 issuance of the bonds.

38 (f) Where bonds payable wholly from revenues are
39 issued, it shall be the duty of the board to fix, and
40 from time to time to revise, the rates of compensation
41 for water sold and services rendered by the district
42 which will be sufficient to pay the expense of

operating and maintaining the facilities of the district and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued it shall be the duty of the board to fix, and from time to time to revise, the rate of compensation for water sold and services rendered by the district which will be sufficient to assure compliance with the resolution authorizing the bonds.

[Sec. 28]

(h) If the district issues and delivers bonds payable wholly or partially from ad valorem taxes, the board shall levy and cause to be assessed and collected ad valorem taxes sufficient to pay the interest on and principal of said bonds, without limit as to the rate or the amount.

Revisor's Note

Section 20(e), Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973, provides that the rate of the ad valorem tax for any year may be "fixed" by the board. The revised law substitutes "adopt" for "fixed" to conform to the terminology used in Section 26.05, Tax Code.

Revised Law

Sec. 8509.0308. ADDITIONAL SECURITY. (a) District bonds, including refunding bonds, that are not payable wholly from ad valorem taxes may be additionally secured, at the board's discretion, by a deed of trust or mortgage lien on the district's physical property and all franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to the property, vesting in the trustee power to:

(1) sell the property for the payment of the debt;

(2) operate the property; and

(3) take other action to further secure the bonds.

(b) A purchaser under a sale under the deed of trust lien, if one is given:

(1) is the absolute owner of the property, facilities, and rights purchased; and

(2) is entitled to maintain and operate the property, facilities, and rights. (Acts 63rd Leg., R.S., Ch. 438, Sec. 22 (part).)

Source Law

Sec. 22. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, Such bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the district and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties vesting in the trustee power to sell the properties for the payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. . . . Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Revised Law

Sec. 8509.0309. TRUST INDENTURE. (a) District bonds, including refunding bonds, that are not payable wholly from ad valorem taxes may be additionally secured by a trust indenture. The trustee may be a bank with trust powers located inside or outside the state.

(b) A trust indenture, regardless of the existence of a deed of trust or mortgage lien on property, may:

(1) provide for the security of the bonds and the preservation of the trust estate as prescribed by the board;

(2) provide for amendment or modification of the trust indenture;

(3) provide for the issuance of bonds to replace lost or mutilated bonds;

(4) condition the right to spend district money or sell district property on the approval of a licensed engineer selected as provided by the trust indenture; and

(5) provide for the investment of district money.
(Acts 63rd Leg., R.S., Ch. 438, Sec. 22 (part).)

Source Law

Sec. 22. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank having trust powers situated either within or outside of the State of Texas. . . . Such trust indenture, regardless of the existence of the deed of trust or mortgage lien

1 on the properties may contain any provisions
2 prescribed by the board for the security of the bonds
3 and the preservation of the trust estate, and may make
4 provision for amendment or modification thereof and
5 the issuance of bonds to replace lost or mutilated
6 bonds, and may condition the right to expend district
7 money or sell district property upon approval of a
8 registered professional engineer selected as provided
9 therein, and may make provision for the investment of
10 funds of the district. . . .

11 Revisor's Note

12 Section 22, Chapter 438, Acts of the 63rd
13 Legislature, Regular Session, 1973, refers to a
14 "registered professional engineer." The revised law
15 substitutes "licensed engineer" for the quoted
16 language because under Chapter 1001, Occupations Code,
17 engineers are licensed, not registered.

18 Revised Law

19 Sec. 8509.0310. INTERIM BONDS OR NOTES. Before issuing
20 definitive bonds, the board may issue interim bonds or notes
21 exchangeable for definitive bonds. (Acts 63rd Leg., R.S., Ch. 438,
22 Sec. 20(a) (part).)

23 Source Law

24 (a) . . . Pending the issuance of definitive
25 bonds the board may authorize the delivery of
26 negotiable interim bonds or notes, eligible for
27 exchange or substitution by use of the definitive
28 bonds.

29 Revisor's Note

30 (1) Section 20(a), Chapter 438, Acts of the 63rd
31 Legislature, Regular Session, 1973, refers to
32 "negotiable" interim bonds or notes. The revised law
33 omits "negotiable" for the reason stated in Revisor's
34 Note (2) to Section 8509.0301.

35 (2) Section 20(a), Chapter 438, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to bonds or
37 notes "eligible for exchange or substitution." The
38 revised law substitutes "exchangeable" for the quoted
39 language because, in context, "substitution" is
40 included in the meaning of "exchange."

Revised Law

Sec. 8509.0311. USE OF BOND PROCEEDS. (a) The district may set aside an amount of proceeds from the sale of bonds issued under this subchapter for the payment of interest expected to accrue during construction and a reserve interest and sinking fund. The resolution authorizing the bonds may provide for setting aside and using the proceeds as provided by this subsection.

(b) The district may use proceeds from the sale of the bonds to pay any expense necessarily incurred in accomplishing the district's purpose, including any expense of issuing and selling the bonds.

(c) The proceeds from the sale of the bonds may be temporarily invested in direct obligations of the United States maturing not later than the first anniversary of the date of investment. (Acts 63rd Leg., R.S., Ch. 438, Sec. 20(g).)

Source Law

(g) From the proceeds from the sale of the bonds, the district may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this district is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be temporarily invested in direct obligations of the United States Government maturing in not more than one (1) year from the date of investment.

Revised Law

Sec. 8509.0312. APPOINTMENT OF RECEIVER. (a) On default or threatened default in the payment of principal of or interest on bonds issued under this subchapter that are payable wholly or partly from revenue, a court may, on petition of the holders of outstanding bonds, appoint a receiver for the district.

(b) The receiver may collect and receive all district income except taxes, employ and discharge district agents and employees, take charge of money on hand, except money received from taxes, unless commingled, and manage the district's proprietary affairs

1 without the consent of or hindrance by the board.

2 (c) The receiver may be authorized to sell or contract for
3 the sale of water or to renew those contracts with the approval of
4 the court that appointed the receiver.

5 (d) The court may vest the receiver with any other power or
6 duty the court finds necessary to protect the bondholders. (Acts
7 63rd Leg., R.S., Ch. 438, Sec. 20(h) (part).)

8 Source Law

9 (h) In the event of a default or a threatened
10 default in the payment of principal or of interest on
11 bonds payable wholly or partially from revenues, any
12 court of competent jurisdiction may, upon petition of
13 the holders of outstanding bonds, appoint a receiver
14 with authority to collect and receive all income of the
15 district except taxes, employ and discharge agents and
16 employees of the district, take charge of funds on hand
17 (except funds received from taxes unless commingled)
18 and manage the proprietary affairs of the district
19 without consent or hindrance by the directors. Such
20 receiver may also be authorized to sell or make
21 contracts for the sale of water or renew such contracts
22 with the approval of the court appointing him. The
23 court may vest the receiver with such other powers and
24 duties as the court may find necessary for the
25 protection of the holders of the bonds. . . .

26 Revisor's Note

27 Section 20(h), Chapter 438, Acts of the 63rd
28 Legislature, Regular Session, 1973, refers to a court
29 "of competent jurisdiction." The revised law omits
30 the quoted language because the general laws of civil
31 jurisdiction determine which courts have "competent
32 jurisdiction" over a matter. For example, see Section
33 24.003, Government Code, for the jurisdiction of
34 certain district courts to appoint receivers.

35 Revised Law

36 Sec. 8509.0313. REFUNDING BONDS. (a) The district may
37 issue refunding bonds to refund outstanding bonds issued under
38 this subchapter and interest on those bonds.

39 (b) Refunding bonds may:

- 40 (1) be issued to refund bonds of more than one series;
41 (2) combine the pledges for the outstanding bonds for
42 the security of the refunding bonds; or

1 (3) be secured by a pledge of other or additional
2 revenue or mortgage liens.

3 (c) The provisions of this subchapter regarding the
4 issuance of other bonds, their security, and the remedies of the
5 holders apply to refunding bonds.

6 (d) The comptroller shall register the refunding bonds on
7 surrender and cancellation of the bonds to be refunded.

8 (e) Instead of issuing bonds to be registered on the
9 surrender and cancellation of the bonds to be refunded, the
10 district, in the resolution authorizing the issuance of the
11 refunding bonds, may provide for the sale of the refunding bonds and
12 the deposit of the proceeds in a bank at which the bonds to be
13 refunded are payable. In that case, the refunding bonds may be
14 issued in an amount sufficient to pay the principal of and interest
15 on the bonds to be refunded to their option date or maturity date,
16 and the comptroller shall register the refunding bonds without the
17 surrender and cancellation of the bonds to be refunded. (Acts 63rd
18 Leg., R.S., Ch. 438, Sec. 21.)

19 Source Law

20 Sec. 21. The district is authorized to issue
21 refunding bonds for the purpose of refunding any
22 outstanding bonds authorized by this Act and interest
23 thereon. Such refunding bonds may be issued to refund
24 more than one (1) series of outstanding bonds and
25 combine the pledges for the outstanding bonds for the
26 security of the refunding bonds, and may be secured by
27 other or additional revenues and mortgage liens. The
28 provisions of this law with reference to the issuance
29 by the district of other bonds, their security, and
30 their approval by the Attorney General and the
31 remedies of the holders shall be applicable to
32 refunding bonds. Refunding bonds shall be registered
33 by the Comptroller upon surrender and cancellation of
34 the bonds to be refunded, but in lieu thereof, the
35 resolution authorizing their issuance may provide that
36 they shall be sold and the proceeds thereof deposited
37 in the bank where the original bonds are payable, in
38 which case the refunding bonds may be issued in an
39 amount sufficient to pay the principal of and the
40 interest on the original bonds to their option date or
41 maturity date, and the Comptroller shall register them
42 without concurrent surrender and cancellation of the
43 original bonds.

44 Revisor's Note

45 Section 21, Chapter 438, Acts of the 63rd

1 Legislature, Regular Session, 1973, refers to the
2 "approval by the Attorney General" of refunding bonds.
3 The revised law omits the quoted language because it is
4 superseded by Section 1202.003, Government Code,
5 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
6 of the 70th Legislature, 2nd Called Session (Article
7 717k-8, Vernon's Texas Civil Statutes), which provides
8 for approval of public securities by the attorney
9 general. That section applies to bonds issued by the
10 district by application of Section 1202.001,
11 Government Code.

12 Revised Law

13 Sec. 8509.0314. LIMITATION ON RIGHTS OF BONDHOLDERS. The
14 resolution authorizing the bonds or the trust indenture securing
15 the bonds may limit or qualify the rights of the holders of less
16 than all of the outstanding bonds payable from the same source to
17 institute or prosecute litigation affecting the district's
18 property or income. (Acts 63rd Leg., R.S., Ch. 438, Sec. 20(h)
19 (part).)

20 Source Law

21 (h) . . . The resolution authorizing the
22 issuance of the bonds or the trust indenture securing
23 the bonds may limit or qualify the rights of the
24 holders of less than all of the outstanding bonds
25 payable from the same source to institute or prosecute
26 any litigation affecting the district's property or
27 income.

28 Revised Law

29 Sec. 8509.0315. BONDS EXEMPT FROM TAXATION. A district
30 bond, the transfer of the bond, and the income from the bond,
31 including profits made on the sale of the bond, are exempt from
32 taxation in this state. (Acts 63rd Leg., R.S., Ch. 438, Sec. 26
33 (part).)

34 Source Law

35 Sec. 26. . . . the bonds issued hereunder and
36 their transfer and the income therefrom, including the
37 profits made on the sale thereof, shall at all times be
38 free from taxation within this state.

1 Revisor's Note
2 (End of Subchapter)

3 (1) Section 20(b), Chapter 438, Acts of the 63rd
4 Legislature, Regular Session, 1973, provides that
5 district bonds may be sold at a price and under terms
6 that the board determines to be the most advantageous
7 reasonably obtainable. The revised law omits that
8 provision because it duplicates or is superseded by
9 provisions of general law. Section 1204.006(b),
10 Government Code, provides that an issuer may sell
11 public securities at any price. That section reflects
12 the amendment of Chapter 3, Acts of the 61st
13 Legislature, Regular Session, 1969 (Article 717k-2,
14 Vernon's Texas Civil Statutes), now Chapter 1204,
15 Government Code, by Section 1, Chapter 61, Acts of the
16 67th Legislature, Regular Session, 1981. Section
17 1204.006(b) applies to district bonds by application
18 of Sections 1204.001 and 1204.002, Government Code.
19 Section 1201.022, Government Code, as amended by
20 Section 1, Chapter 769, Acts of the 77th Legislature,
21 Regular Session, 2001, provides that an issuer may
22 sell public securities "under the terms determined by
23 the governing body of the issuer to be in the issuer's
24 best interests." The omitted law reads:

25 (b) . . . [bonds] . . . may be sold
26 at a price and under terms determined by the
27 board to be the most advantageous
28 reasonably obtainable and

29 (2) Section 20(b), Chapter 438, Acts of the 63rd
30 Legislature, Regular Session, 1973, provides that
31 district bonds may be called, or redeemed, before
32 maturity at the time and price specified in the
33 resolution authorizing the bonds. The revised law
34 omits that provision because it duplicates Sections
35 1201.021 and 1201.022, Government Code, which provide
36 that a public security may be redeemed before maturity

1 and be payable in specified amounts and at specified
2 times. The omitted law reads:

3 (b) . . . [bonds] . . . within the
4 discretion of the board may be made callable
5 prior to maturity at such times and prices
6 as may be prescribed in the resolution
7 authorizing the bonds, and

8 (3) Section 20(b), Chapter 438, Acts of the 63rd
9 Legislature, Regular Session, 1973, provides that
10 district bonds may be made registrable as to principal
11 or as to principal and interest. The revised law omits
12 that provision because it duplicates Section
13 1201.024(a)(3), Government Code. The omitted law
14 reads:

15 (b) . . . [bonds] . . . may be made
16 registrable as to principal or as to both
17 principal and interest.

18 (4) Section 20(i), Chapter 438, Acts of the 63rd
19 Legislature, Regular Session, 1973, requires the
20 district to secure approval from the Texas Commission
21 on Environmental Quality in the manner provided by
22 Section 51.421, Water Code, before issuing bonds for
23 improvements. Chapter 715, Acts of the 74th
24 Legislature, Regular Session, 1995, repealed Section
25 51.421, Water Code, and enacted Section 49.181, Water
26 Code, to govern the authority of the commission over
27 the issuance of district bonds. A reference to Section
28 49.181, Water Code, is unnecessary because that
29 section applies to the district under Sections 49.001
30 and 49.002, Water Code, without an express reference
31 to that section in this chapter. The omitted law
32 reads:

33 (i) Before the district shall issue
34 any bonds for improvements authorized
35 herein, it shall secure prior approval from
36 the commission in the manner provided by
37 Section 51.421, Texas Water Code.

38 (5) Section 24, Chapter 438, Acts of the 63rd
39 Legislature, Regular Session, 1973, requires the

1 district to deliver bonds it issues to the attorney
2 general for examination and approval. Section 24 also
3 requires the attorney general to approve district
4 bonds if the bonds were authorized under law. In
5 addition, Section 24 provides that after approval the
6 bonds must be registered with the comptroller and that
7 after approval and registration the bonds are
8 incontestable. The revised law omits those provisions
9 as superseded by Chapter 1202, Government Code
10 (enacted as Article 3, Chapter 53, Acts of the 70th
11 Legislature, 2nd Called Session, 1987). Section
12 1202.003, Government Code, provides for approval of
13 the bonds by the attorney general and requires the
14 attorney general to submit the approved bonds to the
15 comptroller for registration. Section 1202.005,
16 Government Code, requires registration of the bonds by
17 the comptroller. Section 1202.006, Government Code,
18 provides that after approval and registration the
19 bonds are incontestable and binding obligations.
20 Chapter 1202, Government Code, applies to district
21 bonds by application of Sections 1202.001 and
22 1202.003(c), Government Code. The omitted law reads:

23 Sec. 24. After any bonds (including
24 refunding bonds) are authorized by the
25 district, such bonds and the record
26 relating to their issuance shall be
27 submitted to the Attorney General for
28 examination as to the validity
29 thereof. . . . If such bonds have been
30 authorized and . . . in accordance with the
31 Constitution and laws of the State of Texas
32 the Attorney General shall approve the
33 bonds and . . . the bonds then shall be
34 registered by the Comptroller of Public
35 Accounts. Thereafter the bonds, and . . .
36 shall be valid and binding and shall be
37 incontestable for any cause.

38 (6) Section 24, Chapter 438, Acts of the 63rd
39 Legislature, Regular Session, 1973, details various
40 procedures regarding approval of bond contracts and
41 proceedings by the attorney general. The revised law

1 omits the portion of Section 24 regarding the validity
2 and incontestability of a contract the proceeds of
3 which are pledged to the payment of a bond as impliedly
4 repealed by Section 1202.006, Government Code (enacted
5 as Section 3.002(d), Chapter 53, Acts of the 70th
6 Legislature, 2nd Called Session, 1987). Section
7 1202.006, Government Code, provides that after
8 approval and registration of the bond, the bond and
9 contract are not contestable for any reason. Section
10 1202.006 applies to district bonds by application of
11 Sections 1202.001 and 1202.003(c), Government Code.
12 The omitted law reads:

13 Sec. 24. . . . Where such bonds
14 recite that they are secured by a pledge of
15 the proceeds of a contract theretofore made
16 between the district and any city or other
17 governmental agency, authority or district,
18 a copy of such contract and the proceedings
19 of the city or other governmental agency,
20 authority or district authorizing such
21 contract shall also be submitted to the
22 Attorney General. . . . if such contracts
23 have been made [in accordance with the
24 Constitution and laws of the State of Texas
25 the Attorney General shall approve] . . .
26 such contracts and [Thereafter]
27 . . . the contracts, if any, [shall be valid
28 and . . . shall be incontestable for any
29 cause.]

30 (7) Section 25, Chapter 438, Acts of the 63rd
31 Legislature, Regular Session, 1973, lists the entities
32 for which district bonds are legal investments and
33 provides that district bonds may secure deposits of
34 public funds of the state or political subdivisions.
35 The revised law omits the provision relating to the
36 eligibility of district bonds to be considered as
37 investments for various entities because it
38 duplicates, in substance, Section 49.186(a), Water
39 Code. While Section 25 lists "guardians" and Section
40 49.186(a), Water Code, does not, Section 49.186(a)
41 includes "fiduciaries," and a guardian is a fiduciary.
42 The revised law omits the provision relating to the use

1 of district bonds as security for deposits of state
2 funds as impliedly repealed by Section 404.0221,
3 Government Code (enacted in 1995), which lists
4 eligible collateral for deposits of state funds by the
5 comptroller, and by Section 404.031, Government Code
6 (enacted in 1985 as Section 3.001, Article 4393-1,
7 Vernon's Texas Civil Statutes), which provides for the
8 valuation of that collateral. As to securing deposits
9 of other funds, the provision is impliedly repealed by
10 Chapter 2257, Government Code (enacted in 1989 as
11 Article 2529d, Vernon's Texas Civil Statutes), which
12 governs eligible collateral for deposits of funds of
13 other public agencies, including political
14 subdivisions, and permits those deposits to be secured
15 by obligations issued by conservation and reclamation
16 districts. The omitted law reads:

17 Sec. 25. All bonds of the district
18 shall be and are hereby declared to be legal
19 and authorized investments for banks,
20 savings banks, trust companies, building
21 and loan association, savings and loan
22 association, insurance companies,
23 fiduciaries, trustees, guardians, and for
24 the sinking fund of cities, towns,
25 villages, counties, school districts, or
26 other political corporations or
27 subdivisions of the State of Texas. Such
28 bonds shall be eligible to secure the
29 deposit of any and all public funds of the
30 State of Texas, and any and all public funds
31 of cities, towns, villages, counties,
32 school districts, or other political
33 corporations or subdivision of the State of
34 Texas; and such bonds shall be lawful and
35 sufficient security for said deposits to
36 the extent of their value, when accompanied
37 by all unmatured coupons appurtenant
38 thereto.

39 Revisor's Note
40 (End of Chapter)

41 (1) Section 16, Chapter 438, Acts of the 63rd
42 Legislature, Regular Session, 1973, provides that the
43 board is not required to call a confirmation election
44 or hold a hearing on the exclusion of land. The
45 revised law omits the provision as executed. The

1 provision is a transition provision addressing the
2 applicability of provisions of the general law in
3 effect at the time of the district's creation that
4 would have required the district to hold both a
5 confirmation election and a hearing on the exclusion
6 of land. The omitted provision negates those general
7 law requirements as inapplicable to this legislatively
8 created district. The power or duty to hold a hearing
9 to exclude land subsequent to the creation of the
10 district is governed by Subchapter J, Chapter 49,
11 Water Code, which applies to the district under
12 Sections 49.001 and 49.002 of that code. The omitted
13 law reads:

14 Sec. 16. [It shall not be necessary
15 for the board] to call a confirmation
16 election or [to hold] a hearing on the
17 exclusion of lands or

18 (2) Section 31, Chapter 438, Acts of the 63rd
19 Legislature, Regular Session, 1973, and Section 8,
20 Chapter 115, Acts of the 64th Legislature, Regular
21 Session, 1975, provide that the act is severable. The
22 revised law omits that provision because the same
23 result is produced by application of Section 311.032,
24 Government Code (Code Construction Act), which states
25 that a provision of a statute is severable from each
26 other provision of the statute that can be given
27 effect. The omitted law reads:

28 [Acts 63rd Leg., R.S., Ch. 438]

29 Sec. 31. . . . If any provision of
30 the Act shall be invalid, such fact shall
31 not affect the creation of the Authority or
32 the validity of any other provision of this
33 Act, and the Legislature here declares that
34 it would have created the Authority and
35 enacted the valid provisions of this Act
36 notwithstanding the invalidity of any other
37 provision or provisions hereof.

38 [Acts 64th Leg., R.S., Ch. 115]

39 Sec. 8. In case any one or more of the
40 sections, provisions, clauses, or words of
41 this Act, or the application thereof to any
42 situation or circumstance, shall for any

1 reason be held to be invalid or
2 unconstitutional, such invalidity or
3 unconstitutionality shall not affect any
4 other sections, provisions, clauses, or
5 words of this Act, or the application
6 thereof to any other situation or
7 circumstance, and it is intended that this
8 Act shall be severable and shall be
9 construed and applied as if any such invalid
10 or unconstitutional section, provision,
11 clause, or word has not been included
12 herein.

13 (3) Sections 6 and 7, Chapter 115, Acts of the
14 64th Legislature, Regular Session, 1975, and Sections
15 2 and 3, Chapter 651, Acts of the 70th Legislature,
16 Regular Session, 1987, validate certain actions of the
17 district or the board. Those provisions are omitted
18 from the revised law because they served their
19 purposes on the day they took effect and are executed
20 law. Section 311.031(a)(2), Government Code (Code
21 Construction Act), provides that the repeal of a
22 statute does not affect any validation previously made
23 under the statute. Therefore, the omission of the
24 executed validation provision does not affect the
25 validation. The omitted law reads:

26 [Acts 64th Leg., R.S., Ch. 115]

27 Sec. 6. The organization proceedings
28 and maintenance tax election of the Palo
29 Duro River Authority of Texas are hereby
30 validated in all respects.

31 Sec. 7. This Act shall have no
32 application to litigation now pending in
33 any court of competent jurisdiction in the
34 State.

35 [Acts 70th Leg., R.S., Ch. 651]

36 Sec. 2. All resolutions, orders, and
37 other acts or attempted acts of the board of
38 directors of the district, together with
39 all annexations by the district and
40 annexation elections, and all proceedings
41 of the district, authorizing the issuance
42 of bonds of the district, including voted
43 but unissued bonds of the district, bond
44 elections, and the bond taxes voted for
45 those bonds, and all contracts are
46 validated in all respects. All the
47 resolutions, orders, and other acts or
48 attempted acts of the board of directors of
49 the district, annexations, all proceedings
50 of the district, the district's bonds, bond
51 elections, bond taxes, pledged revenues,
52 and contracts are valid as though they had
53 originally been legally authorized or

1 accomplished.

2 Sec. 3. This Act does not apply to or
3 affect litigation now pending in any court
4 of competent jurisdiction in this state to
5 which the district is a party.

6 (4) Section 5, Chapter 17, Acts of the 68th
7 Legislature, Regular Session, 1983, provides
8 transition procedures related to suits against the
9 district. The revised law omits that provision as
10 executed. The omitted law reads:

11 Sec. 5. This Act applies only to
12 suits against the Palo Duro River Authority
13 filed on or after the effective date of this
14 Act. A suit filed before the effective date
15 of this Act is governed by the law in effect
16 at the time the suit was filed.

17 (5) Section 13, Chapter 1046, Acts of the 85th
18 Legislature, Regular Session, 2017, recites
19 legislative findings regarding procedural
20 requirements for legislation affecting the district
21 under the constitution and other laws and rules,
22 including proper legal notice and the filing of
23 recommendations. The revised law omits those
24 provisions as executed. The omitted law reads:

25 Sec. 13. (a) The legal notice of the
26 intention to introduce this Act, setting
27 forth the general substance of this Act, has
28 been published as provided by law, and the
29 notice and a copy of this Act have been
30 furnished to all persons, agencies,
31 officials, or entities to which they are
32 required to be furnished under Section 59,
33 Article XVI, Texas Constitution, and
34 Chapter 313, Government Code.

35 (b) The governor, one of the required
36 recipients, has submitted the notice and
37 Act to the Texas Commission on
38 Environmental Quality.

39 (c) The Texas Commission on
40 Environmental Quality has filed its
41 recommendations relating to this Act with
42 the governor, the lieutenant governor, and
43 the speaker of the house of representatives
44 within the required time.

45 (d) All requirements of the
46 constitution and laws of this state and the
47 rules and procedures of the legislature
48 with respect to the notice, introduction,
49 and passage of this Act are fulfilled and
50 accomplished.